



REPORT TO THE PLANNING COMMISSION

CITY COUNCIL CHAMBERS, 3300 CAPITOL AVENUE, FREMONT CA 94538

General Order of Business

1. Preliminary (Call to Order – 7:00 p.m., Salute to the Flag, Roll Call, Approval of Minutes)
2. Consent Calendar
3. Oral Communications
4. Public Hearing Items
5. Matters of Interest
6. Adjournment



Addressing the Planning Commission

Any member of the public may speak on any item under discussion by the Planning Commission after “being recognized” by the Chairperson. To speak, walk to the rostrum directly in front of the Commission and, after the Chairperson recognizes you, state your name and address. Generally, after the Chairperson introduces an item, the order of presentation begins with comments by staff. The project applicant or their authorized representative may then comment. Next, interested members of the public may speak. Additional comments by the applicant or staff, as appropriate, may follow. At the close of testimony, the matter will return to the Planning Commission for discussion and action. Any item not introduced prior to 11:00 p.m. will automatically be “continued,” or held over, to the next regularly scheduled Planning Commission meeting.

Consent Calendar

Items on the Consent Calendar are scheduled public hearing items which are considered routine by the Planning Commission. The Consent items will be enacted by one motion and one vote and include the following:

- Items recommended for continuance to a later meeting.
- Items for which staff has received no indication of public concern and for which staff is recommending approval.
- Items which have been moved from the regular hearing agenda and placed on the Consent Calendar at the beginning of any particular meeting.

Items on the Consent Calendar may be removed by any member of the public or Planning Commission. If removed from the Consent Calendar, the item will be placed on the regular hearing agenda in its normal sequence on the agenda. When the Planning Commission approves a consent item, it approves the staff recommendation together with any conditions of approval included in the recommendation.

Please note that items on the regular hearing agenda may be placed on the Consent Calendar at the beginning of any particular meeting when requested by a member of the Planning Commission and with the approval of the Chairperson. If a Planning Commissioner requests that an item be moved from the regular hearing agenda and placed on the Consent Calendar, the Chairperson will ask if anyone in the audience or any other Commissioner wishes to speak to the item or have the item heard. If no one wishes to do so, the Chairperson may move the item to the Consent Calendar and it will be considered at that time. Accordingly, anyone wishing to speak to an item should be present at the beginning of the meeting.

Oral Communications

Any member of the public desiring to speak on a matter which is not scheduled on this agenda may do so under Oral Communications. As a matter of policy, the Planning Commission does not take immediate action on items presented under Oral Communications.

General Information

The Planning Commission usually meets on the 2nd and 4th Thursday of each month. [Exceptions: Only one meeting in August 27, November 12, and December 10.] Commission meetings are held in the City Council Chambers at 3300 Capitol Avenue.

Stenocaptioning and/or earphones for people who are hearing impaired are available from the Recording Clerk 15 minutes prior to the meeting. A driver's license will be held as a deposit. Commission meetings are open captioned for the deaf in the Council Chambers and closed captioned for home viewing. Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the Planning Department at (510) 494-4440. Planning Commission meetings are open captioned for the deaf in the Council Chambers and closed captioned for home viewing. For more information on Planning Commission please visit our website at <http://www.fremont.gov/Construction/PlanningCommission/default.htm> or contact the Planning Department at (510) 494-4440.

The regular meetings of the Fremont Planning Commission are broadcast on Cable Television Channel 27.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the Historical Architectural Review Board less than 72 hours prior to the meeting will be available for public inspection at 39550 Liberty Street during normal business hours, at the time the records are distributed to the Planning Commission.

Copies of staff report are available at the Development Services Center at 39550 Liberty Street (between Stevenson Blvd. and Walnut Ave.) and at City Hall at 3300 Capitol Avenue the week of the meeting and are free of charge. Plans and other supporting documents may be viewed any day until noon the day of the Planning Commission meeting. Copies will be provided at cost when feasible. The Development Services Center is open 8 a.m. to 4 p.m., Mondays through Thursdays; and 8 a.m. to 12 p.m., Fridays.

Planning Commission final agendas, which include location maps, staff reports and proximity maps can also be viewed on the Internet at <http://www.fremont.gov/CityHall/PlanningMeetings/default.htm>.

The Planning Commission meetings are now also live over the Internet. Please note: Live webcasts are only available when the Planning Commission is in session. If the Planning Commission is not in session, the web browser will return a "busy" error.

To send an e-mail message to all of your Planning Commissioners send your message to:
planning_commission@fremont.gov

To leave a voice message for any of the Planning Commissioners, dial the numbers listed below:

David Bonaccorsi:	494-4895 *4998
Yogi Chugh:	494-4895 *4992
Richard King:	494-4895 *4995
Dirk Lorenz:	494-4895 *4997
Daniel Lydon:	494-4895 *4993
Lisa Quan:	494-4895 *4996
Dr. Rakesh Sharma:	494-4895 *4994

We appreciate your interest in the conduct of your City's business. Information about the City or the items discussed in this report may be referred to:

Planning Commission Secretary
City of Fremont Planning Division
39550 Liberty Street, P.O. Box 5006
Fremont, CA 94537-5006
Telephone: 510-494-4440

Planning Commissioners

Richard King, Chairperson
Dr. Rakesh Sharma, Vice Chairperson
David Bonaccorsi
Yogi Chugh
Dirk Lorenz
Daniel Lydon
Lisa Quan

City Staff

Jeff Schwob/Wayne Morris, Planning Commission Secretaries
Joan Borger, Assistant City Attorney
Scott Rennie, Senior Deputy City Attorney
Alice Malotte, Recording Clerk

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AGENDA
FREMONT PLANNING COMMISSION MEETING, APRIL 9, 2009
COUNCIL CHAMBERS, CITY HALL, 7:00 P.M.

6:30 p.m. - Work Session on Review of procedural considerations for use permit applications and other quasi-judicial Planning Commission proceedings - Ardenwood Conference Room

1. PRELIMINARY

- 1.1 CALL TO ORDER**
- 1.2 SALUTE TO THE FLAG**
- 1.3 ROLL CALL**
- 1.4 APPROVAL OF MINUTES** – Regular Meeting of March 12, 2009.
- 1.5 DISCLOSURES**

2. CONSENT CALENDAR:

NOTICE: ITEMS ON THE PUBLIC HEARING CALENDAR MAY BE MOVED TO THE CONSENT CALENDAR IF NO ONE IS PRESENT TO SPEAK ON THE ITEMS. ALL APPLICANTS AND INTERESTED PERSONS ARE ADVISED TO BE PRESENT AT THE START OF THE MEETING.

- Item 3. LOUIE SLIDE REPAIR - 46995 OCOTILLO COURT - (PLN2006-00239)** - to consider a Preliminary Grading Plan for a landslide repair in the rear yard of a single-family home located in the Warm Springs Planning Area. A Mitigated Negative Declaration has been prepared and circulated for this project in accordance with the requirements of the California Environmental Quality Act.
Project Planner - Joel Pullen, (510) 494-4436, jpullen@fremont.gov

Recommended Approve, based on findings and subject to conditions.
Action:

- Item 5. TRI CITY VOLUNTEERS - 37510 DUSTERBERRY WAY - (PLN2008-00053)** - to consider a Planned District Minor Amendment (P (CSPC)) to extend temporary occupancy for a private non-profit organization providing food distribution and a retail thrift store located in the Centerville Planning Area. The project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.
Project Planner - Clifford Nguyen, (510) 494-4769, cnguyen@fremont.gov

Recommended Approve, based on findings and subject to conditions.
Action:

- Item 7. SAHNI RESIDENCE - 44529 VISTA GRANDE COURT - (PLN2009-00184)** - to consider a Preliminary Grading Plan application for a new single family home located in the Mission San Jose Planning Area. A Mitigated Negative Declaration was previously adopted for the subdivision Tract Map and Planned District (P-90-17).
Project Planner-Susan Summerford, (510) 494-4543, ssummerford@fremont.gov

Recommended Continue to a date uncertain.
Action:

3. PUBLIC/ORAL COMMUNICATIONS

4. PUBLIC HEARING ITEMS

- Item 1. LUNARE DEVELOPMENT - 42100 BLACOW ROAD - (PLN2009-00089)** - to consider a Finding for Site Plan and Architectural Review, Tentative Tract Map No. 8001, and Private Streets to allow the construction of 38 new townhomes located in the Irvington Planning Area. A Mitigated Negative Declaration has been prepared and circulated for this project in accordance with the requirements of the California Environmental Quality Act.
Project Planner-Susan Summerford, (510) 494-4543, ssummerford@fremont.gov

Recommended Approve, based on findings and subject to conditions.
Action:

- Item 2. FARWELL MEDICAL OFFICE BUILDING - FARWELL DRIVE - (PLN2009-00123)** - to consider a Planned District Minor Amendment, Site Plan and Architectural Review, a Planned Unit Development Rescission, and a Finding for Floor Area Ratio increase for a new two-story 32,600 square foot medical office building on a currently vacant and unaddressed 1.4-acre parcel (APN 531-0412-011-00) located in the Irvington Planning Area. This project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15332, Infill Development.
Project Planner - Joel Pullen, (510) 494-4436, jpullen@fremont.gov

Recommended Approve, based on findings and subject to conditions.
Action:

- Item 4. WASHINGTON DEVELOPMENT - 1845 WASHINGTON BOULEVARD - (PLN2007-00117)** - to consider a Planned Unit Development, Vesting Tentative Parcel Map (VTPM-9278), Preliminary Grading Plan, Private Street for three single-family residences and lots on a 0.74 acre parcel located in the Mission San Jose Planning Area. A Mitigated Negative Declaration has been prepared and circulated for this project in accordance with the requirement of the California Environmental Quality Act.
Project Planner - Terence Wong, (510) 494-4456, twong@fremont.gov

Recommended Action: Approve, based on findings and subject to conditions

- Item 6. SANGEETAANJALI MUSIC SCHOOL - 4600 NELSON STREET - (PLN2009-00044)** - to consider a Conditional Use Permit to allow a portion of an existing residence to be used as a non-profit music school with occasional concerts and recitals held inside the home. This project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15301, Use of an Existing Facility.
Project Planner - Steve Kowalski, (510) 494-4532, skowalski@fremont.gov

Recommended Action: Deny based on findings.

5. MISCELLANEOUS ITEMS

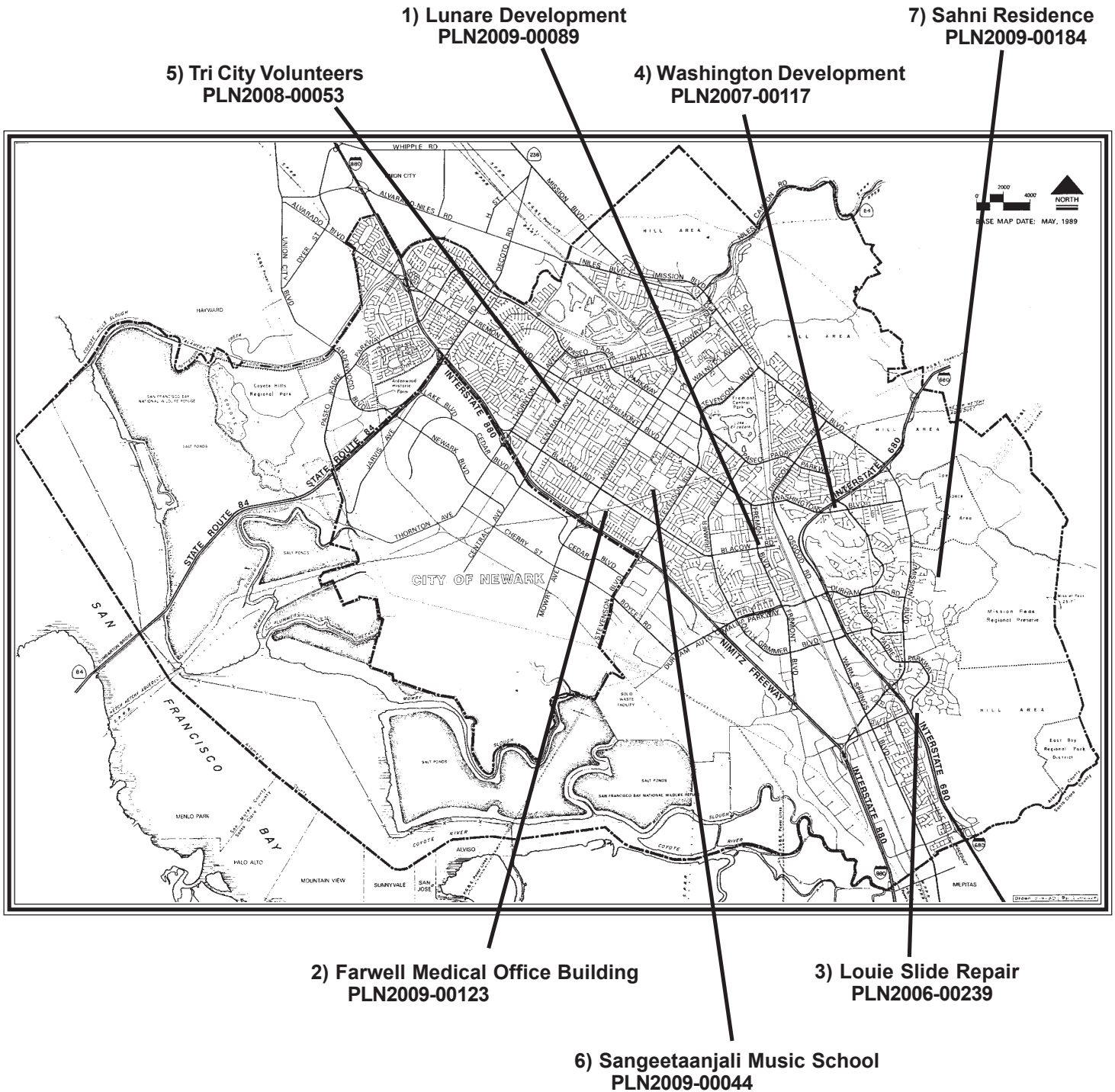
Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
 - Report on actions of City Council Regular Meeting
- Information from Commission: Commission members may report on matters of interest.

6. ADJOURNMENT

Proximity Map

This map shows the general location of projects (by file number) which are scheduled for Planning Commission consideration.





PLANNING COMMISSION STAFF REPORT
APRIL 9, 2009

Project: LUNARE TOWNHOMES - (PLN2009-00089)

Proposal: To consider Site Plan and Architectural Review for an 8 building, 38 unit townhome development, Vesting Tentative Tract Map 8001, Preliminary Grading Plan, and Private Street.

Recommendation: Approve, based on findings and subject to conditions.

Location: 42100 Blacow Road in the Irvington Planning Area.
APN 525-1646-002-01
(See aerial photo next page)

Area: 1.86-acre lot

People: Roger Cornejo, Applicant (Architect)
Steve Saray, Agent of Applicant
Lunare Development Company, Owner
Susan H. Summerford, Staff Planner (510) 494-4543;
ssummerford@fremont.gov

Environmental Review: A Mitigated Negative Declaration has been prepared and circulated for this project in accordance with the requirements of the California Environmental Quality Act (CEQA).

General Plan: Residential Medium Density; 18-23 units per acre

Zoning: P-2004-79

EXECUTIVE SUMMARY:

The proposed project would allow the construction of a thirty-eight unit townhome style development in eight buildings, Vesting Tentative Tract Map 8001, Preliminary Grading Plan, and Private Street. The existing zoning for the site is P-2004-79, a City-initiated P-district, and the General Plan designation is Residential Medium, 18-23 units to the acre. The proposed project is in conformance with both the existing zoning and General Plan. The subject site is generally located on the corner of Fremont Boulevard and Blacow Road. The approximately 1.86 acre site is currently in use for several commercial enterprises in two buildings, which are proposed to be demolished. The project has been reviewed for conformance with City codes and regulations. A Mitigated Negative Declaration was prepared and circulated for this project in accordance with CEQA. Staff recommends the Planning Commission approve the project subject to findings and conditions, contained in Exhibit "D".

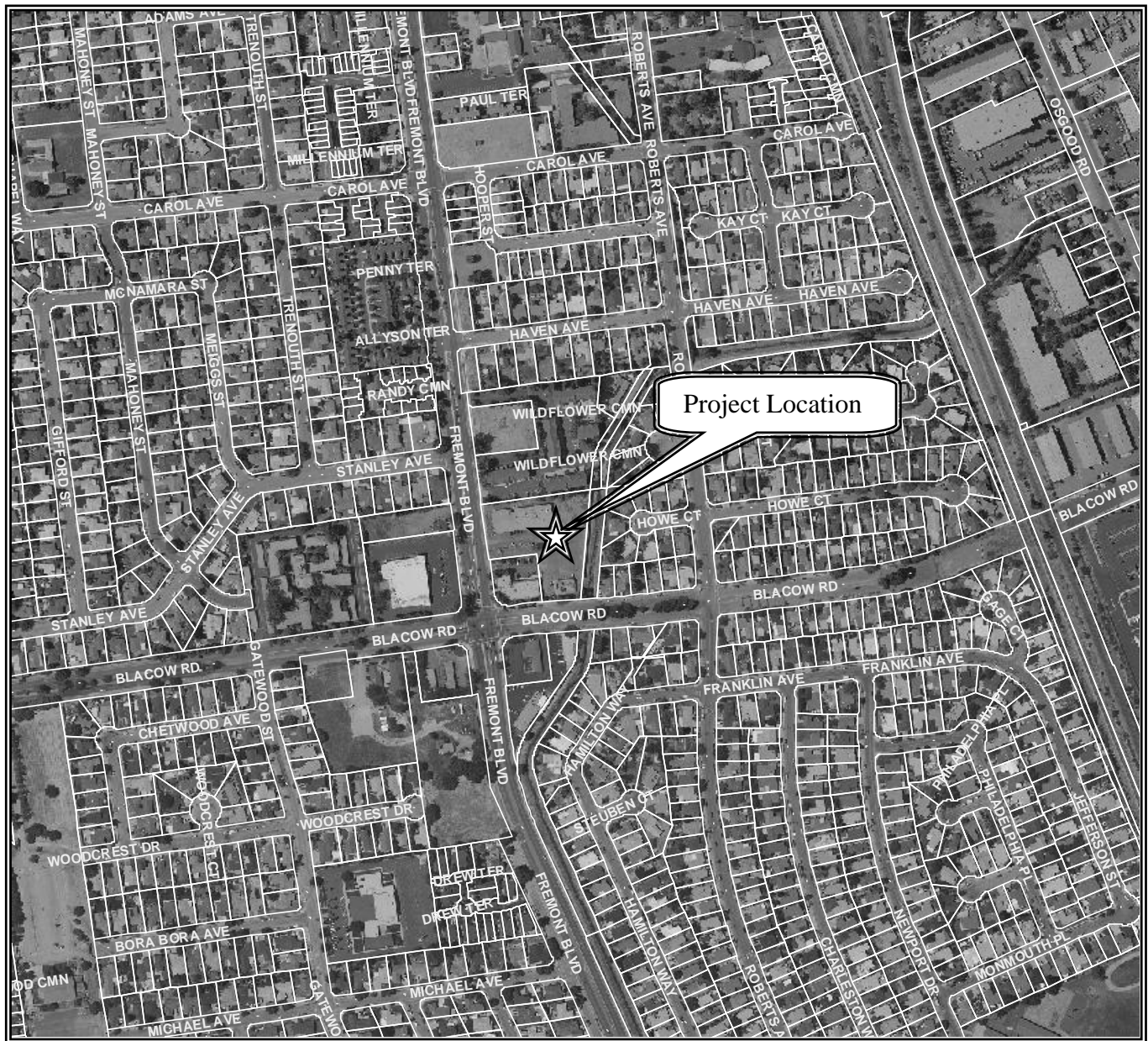


Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

North: Residential Town Home Development; Zoned: R
 South: Neighborhood Commercial & Residential Medium 18-23
 DU/AC & Single Family Residential; Zoned: R-1-6
 East: Neighborhood Commercial & Residential Medium 18-23
 DU/AC & Single Family Residential; Zoned: R-1-6
 West: Alameda County Flood Control Channel & Single Family
 Residential; Zoned: R-1-6

BACKGROUND AND PREVIOUS ACTIONS:

On December 16, 2003, the City Council approved a General Plan amendment that established the Medium Density land use overlay and rezoned 7.79 acres of land in the Irvington Planning Area, of which the subject parcel is a part. The purpose of the General Plan amendment and City-initiated P-district was to facilitate development of commercial, residential or mixed-use projects.

A Preliminary Review Procedure application was submitted for the project on April 28, 2008 and completed in early October. The entitlement application was submitted on October 16, 2008 for Site Plan and Architectural Findings, Vesting Tentative Tract Map 8001 and Private Street plan. Illingworth & Rodkin acoustical consultants were contracted to complete a noise study to evaluate the potential impacts of noise during the construction of and, after construction, to the residents of the proposed project.

The larger of the two existing buildings on the site is currently in use for three businesses; a liquor store, bar and printing shop. The other building fronts on Blacow Road and is in use as a restaurant. Constructed in 1964, both are slated for demolition as a component of the current proposal.

PROJECT DESCRIPTION:

The applicant requests Site Plan and Architectural review, Vesting Tentative Parcel Map 8001, Preliminary Grading Plan, and Private Street plan for the development of an eight building, thirty-eight unit residential project. The proposed project's development is summarized below:

- Residential Dwelling Units: 33% of total site area coverage

	Square footage (including garage)	Number of Units	BMR Units
Building 1	7,146	4	#1
Building 2	7,283	4	#7
Building 3	7,420	4	#10
Building 4	7,420	4	#14
Building 5	12,985	7	#20
Building 6	10,816	6	none
Building 7	9,001	5	none
Building 8	7,283	4	#37
Total =	70,031	38	6

- Off-Street Parking: Resident parking for the units is provided by garages within each unit. Guest parking is located in the center of the site, with easy access to all eight buildings. Parking and other hardscape area totals 30%. Vehicle access to the site will be from a single driveway off of Blacow Road, however, staff will be working with the adjacent property owner to discuss the creation of a cross-access easement for residents to access the site directly from Fremont Boulevard. A similar

easement exists for the drive aisle along Blacow Road. Pedestrian access from both Fremont Boulevard and Blacow Road is provided by landscaped paseos. Interior vehicular circulation for the project will be served by four new private streets; Cerchio Terrace, Borgo Common, Strada Common, and Vicolo Terrace.

- Site Access: The current site configuration has the two buildings taking access from Fremont Boulevard and Blacow Road, respectively, and being separated and served by an approximately 1.74 acre parking area. A new EVAE will be established to connect the Blacow driveway to the new private streets for emergency vehicle access purposes. The existing driveway access to the subject site from Fremont Boulevard will therefore be eliminated.
- Landscaping: 37% of the site is proposed to be landscaping and open space. Only one existing tree is proposed to be removed from the site, a magnolia that sits directly in the center of the site and is currently surrounded by asphalt. The remaining three trees on site are proposed to be preserved and have been incorporated into the design of the development.
- Open Space: Each unit enjoys a private, trellised entrance and patio area. Units that front onto Fremont Boulevard and onto Blacow Road also contain small spaces with ground cover. A common open space for the development totals 0.05 acres. A four foot wide sidewalk along the northern and north eastern boundary terminates at the play/open space area and includes several exercise stations for residents' use.

ITEMS FOR FURTHER CONSIDERATION:

The project proposes one drive aisle from Blacow Road as the sole point of entry designated for the residential development. The project design, as well as the existence of an AC Transit bus stop along the Fremont Boulevard frontage, makes the inclusion of an additional drive aisle to the proposed project from Fremont Boulevard unworkable. Staff will be working with the applicant and property owner of the commercial site adjacent to the subject site to facilitate a cross access easement for the existing drive aisle from Fremont Boulevard. An existing easement that benefits the commercial site is existing from the Blacow Road entrance. This issue is unresolved as staff has not yet met with the owner of the commercial site to explore the possibility of this occurring. (Condition #18) Should the adjacent property owner not wish to grant a cross access easement, the proposed project will be developed per the plans and exhibits referenced and attached hereto without prejudice.

PROJECT ANALYSIS:

General Plan Conformance:

The existing General Plan land use designation for the project site is Neighborhood Commercial & Residential Medium Density; 18-23 DU/AC. The proposed project is consistent with the existing General Plan land use designation for the project site because the project is a residential use that proposes a density of 20.43 units to the acre, where the midpoint density required is 20.5 DU/AC. The General Plan and FMC allow for minor deviations of no more than one dwelling above or below the permitted range when rounding the density calculation. As such, the project does conform to the General Plan and density standards as provided for in the zoning of the site, P-2004-79.

The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

LAND USE GOAL 2: High quality and well-designed new housing of all types throughout the city.

Analysis: As described, the proposed project is a residential development housed in eight separate buildings, with good interior vehicular and pedestrian circulation. This type of development is consistent both with the surrounding land uses, but also the General Plan, which was amended in 2004 to facilitate residential development at this density.

Land Use Policy 1.9: To achieve a variety of housing types, the City has designated locations where moderate and higher density is appropriate. Criteria for the location of higher density housing include access to transit, proximity to commercial areas, proximity to collector or arterial street, and as a transition use where maximum flexibility in site design is required.

Analysis: The project site is on two arterial streets (Fremont Boulevard and Blacow Road), as defined by the General Plan. Additionally, there is an existing AC Transit bus stop along the Fremont Boulevard frontage, and is served by neighborhood commercial uses.

Land Use Policy 1.12: To the maximum extent feasible, play areas and open spaces shall be located to avoid conflict between residents attempting to reach these facilities and vehicular traffic.

Analysis: The play area and open space for the project is located along the eastern boundary, easily accessible to all residents. An exercise pathway terminates at the play/open space area, providing a safe and clearly marked route to access these resident amenities. Guest parking is also adjacent to the play/open space area, allowing residents and guest to utilize those spaces as needed to access the play/open space areas.

Land Use Policy 1.24 Multi-family housing shall be designed to accommodate the needs of families and children.

Analysis: Two floor plans are proposed for this development; the majority of which have three bedrooms and three bathrooms. Each unit features private open space and the development provides a large gathering/play area that is secure and centrally located, therefore meeting the typical needs of families.

Zoning Regulations:

Article 18.1, Section 8-21811 of the Fremont Municipal Code (hereinafter FMC), establishes the standards and requirements for the creation of P-districts in the City. The existing zoning for the subject site is P-2004-79 and is a City-initiated P-district. The permitted uses in this P-district, as stated by the adopting ordinance, include the use currently proposed; a medium density residential development that achieves the midpoint of density at 20.5 units to the acre.

Parking:

FMC Section 20 governs the parking requirements for all development categories and uses in the City. For this project, all residential parking is designated per unit and is located below the living quarters in the associated garage area. The required parking count triggered for the 38 proposed units is 57 spaces, or 1.5 spaces per unit; however 2 covered spaces for each unit are being provided. Guest parking is calculated at 0.5 uncovered spaces per unit. At 38 units, the total guest parking requirement is 19 spaces, which are provided adjacent to the play/open space area and include 5 compact and 1 accessible space.

Inclusionary Housing:

The project has a total inclusionary housing requirement of 15%. The Below Market Rate units (BMR's) are interspersed throughout the development, and no building houses more than one unit. A total of six BMR units are included in the project, the locations of which are listed in the table on page 4 of this report and appear as a condition of approval in Exhibit "D", Condition #15.

Design Analysis:

Site Planning:

The subject site is generally located at the intersection of Fremont Boulevard and Blacow Road in the Irvington planning area. An approximately 0.11 acre section of the site located in the northeastern corner of the lot is vacant and unimproved land. The remaining approximately 1.74 acres of the site is paved, or covered with the existing retail buildings to be replaced with the proposed development. Site access crosses an adjacent parcel with an existing 0.17 acre retail area immediately on the corner of Blacow Road and Fremont Boulevard. The existing driveway access to the subject site from Fremont Boulevard will be eliminated, resulting in a single vehicle access point to the project from Blacow Road. However, as previously mentioned in the "Items for Further Consideration" section, staff intends to facilitate a cross access easement dedication between the commercial site and the proposed development to assist in mitigating any potential traffic circulation issues.

The site is relatively flat with elevations ranging between 44-46 feet and sloping generally towards the east. The site abuts an Alameda County Flood Control channel along the eastern frontage. There is an existing seven-foot high precast concrete wall along the entire eastern frontage, providing separation from the existing Alameda County Flood Control channel. North of the subject site is separated by the same wall from an existing town home development on approximately 2.56 acres. A separate parcel is located immediately on the corner of Blacow Road and Fremont Boulevard housing a commercial building that is not a part of the project. Approximately 80% of the subject site is located in the floodplain. Conditions of approval 21 and 22 address the steps the owner must take to ensure that the development is consistent with federal standards regarding development in a flood plain. The applicant has initiated the process by applying for a conditional letter of map revision based on fill (CLOMR-F) with the Federal Emergency Management Agency.

Architecture:

The proposed project is a townhome-style development in eight buildings, with units being attached and vertically articulated. The applicant describes the architectural style of the proposal as craftsman-inspired, with elements such as hip and gabled roofs, roof overhangs, recessed fascias and the use of exterior metal detailing, including the railings and patios entrances. Each unit will have a different, but harmonious color scheme that will carry through to the garage door, fascia and trim colors. Exterior materials include a smooth stucco finish with a cement plaster base. Staff will work with the owner during building permit stage to achieve an attractive color and materials palette for the project. Windows are vinyl-clad double insulated divided light style. Exterior architectural elements include wooden shutters around at least one upstairs window in each building; gabled roofs over entrance doorways; decorative metal railings that define the individual patio areas with trellises; painted metal garage doors with transom windows and concrete flat tiled roofs. Trash collection areas are provided for in the individual garages.

Open Space/Landscaping:

Total landscaping for the site is approximately 30,820 square feet, including the play/open space area, 47 proposed trees, grassy swales and flow-through planters for storm water treatment, and various shrubs and ground covers are proposed. There are three existing trees on site, two (2) 18" diameter Privet trees and one 14" diameter Magnolia. The design allows for the two (2) Privet trees to be retained but requires the removal or relocation of the Magnolia. The Magnolia is not a good candidate for relocation due to poor health and structure; it will therefore be mitigated with one 36" box tree (Condition #33). In addition, the row of Strawberry and Redwood trees along the north property line and one 34" diameter California Pepper along the east property line have been considered during the design and will be preserved and protected during construction.

Street trees planted to City standard specifications will be planted along the Fremont Boulevard frontage of the site. Units that front onto Fremont Boulevard or Blacow Road also include small private open space with ground cover. Courtyards and parking areas also have plantings to break up the hardscape. Landscaping appears along the pathway that circles the northern and eastern boundary of the site and provides a visual relief for pedestrians utilizing the path. A large picnic table and trellised sitting area are located on the easternmost corner of the play/open space area, with the remainder of that area left open for free play and games. Cobbled pavers are included to highlight the walkways and paths between buildings as well as the exercise pathway that terminates at the open space/play area. Exterior lighting consistent with City standards shall be installed and reviewed at the building permit stage. (Conditions #45 and 46)

Circulation:

The proposed development is bounded by Fremont Boulevard and Blacow Road, which are both arterial streets with full street improvements. An existing AC Transit bus stop is located along the Fremont Boulevard frontage and will be relocated with the input of AC Transit during construction, then re-built to AC Transit specifications prior to the issuance of a final building permit from the City of Fremont. As the existing curb cut along Blacow Road is to be relocated, the sidewalk will need to be reconstructed per City standards.

As described, one current access to the site crosses an adjacent parcel with an existing 7,440 square foot retail area immediately on the corner of Blacow Road and Fremont Boulevard. There will be an emergency vehicle access easement (hereinafter EVAE) along the entranceway from Blacow,

connecting to the private streets proposed as a part of the development. The existing driveway access to the subject site from Fremont Boulevard is to be eliminated (see Items for Further Consideration section). The main entrance to the site will be from Blacow Road. Internal circulation will be on the four new private streets. Pedestrian entrances to the site are between Buildings 1 and 2 from Fremont Boulevard and from a walkway adjacent to the vehicular entrance from Blacow Road. Both pedestrian entrances are connected to the rest of the interior circulation by pathways demarked as such by the use of paver stones. Walkways between Buildings 4 and 5 and Buildings 6 and 7 are also clearly marked and available for pedestrian use.

Street Right-of-way Dedication and Improvements:

The project has approximately 180 feet of frontage along Fremont Boulevard and approximately 80 feet of frontage along Blacow Road. Vehicular access to the project is provided by a new 26-foot wide driveway on Blacow Road. The existing Fremont Boulevard driveway will be removed. The developer is required to dedicate right-of-way and install street improvements in accordance with the Subdivision Ordinance and Street Rights-of-way and Improvement Ordinance.

The following outlines the street improvement requirements for this project:

- Fremont Boulevard is designated in the General Plan as a 4-lane arterial (2 lanes each direction) with a right-of-way of 104 feet. Currently the existing right-of-way along the project frontage is 104 feet. No right-of-way dedication is needed. Required street improvements include, but are not limited to: removal of the existing driveway; installation of a new concrete bus pad, curb, gutter, sidewalk, and street trees and irrigation as required; and installation of new signs and striping.
- Blacow Road is designated in the General Plan as a 4-lane arterial (2 lanes each direction). Along the project frontage, Blacow Road has an existing right-of-way width of 100 feet, a curb-to-curb pavement width of 82 feet (including an 18-foot wide median), and 9-foot wide sidewalks. The current City standard for 4-lane arterials is 106 feet, which provides an 11-foot wide sidewalk and 2-foot wider pavement (1 foot wider each side of the street). Because the existing Blacow pavement width is constant from Fremont Boulevard west to the railroad tracks, staff does not recommend removing the existing curb and gutter in order to widen the pavement. The existing pavement width is sufficient to accommodate anticipated traffic. However, staff is recommending removal of the existing 9-foot wide sidewalk and installation new sidewalk to meet current City standards. Therefore, the developer shall dedicate street right-of-way 2 feet wide along the Blacow frontage to accommodate the wider sidewalk. Required street improvements include, but are not limited to: removal of existing sidewalk, curb, gutter, driveway, and approximately 52 feet of asphalt curb along the existing median; installation of new curb, gutter, sidewalk, driveway, median curb, street trees, irrigation, and utilities.
- Strada Common, Borgo Common, Cerchio Terrace and Vicolo Terrace are private vehicle accessways (PVAWs) that provide vehicle access to all residential units within the project. PVAWs are a type of private street used in townhouse and condominium developments. The proposed private street pavement width is 26 feet, which is required due to building heights that exceed 30 feet. A 4-foot wide sidewalk is provided along portions of the private streets, which connect to other on site walkways.

Analysis: The Council adopted development policy for PVAWs requires sidewalk on each side of the street. However this project, like several other recently approved and constructed townhouse projects, has townhouses designed with front doors that are on the opposite side of the building from the garage door. The site design includes pedestrian walkways that connect front doors with the parking lot, common area improvements, and public streets. Staff supports the proposed pedestrian circulation plan.

- **Private Street Right-of-Way and Improvements:** The developer shall establish private street right-of-way and install complete street improvements for the private streets within the project. Required street improvements shall include, but are not limited to: installation of pavement (including enhanced paving at pedestrian crossings), sidewalk, curb, gutter, landscape planters, street trees, street lights, and utilities. The Homeowners Association shall own and maintain the common facilities within the private streets.

Grading & Drainage:

Currently, the existing 1.86 acre parcel is developed and operational as a commercial center. The parcel generally slopes up to the north and east away from Blacow Road and is approximately two to four feet higher in the north-east corner than the surrounding abutting street grades. The existing buildings and parking lot will be demolished in order to develop the townhouse project.

Grading for the project consists of creating level pads for all garages at each cluster of townhomes. These homes are split level with at least a five foot difference in elevation between the front entrance and garage finished floor. The applicant's engineer estimates the total project grading to be 1,400 cubic yards of cut and 2,500 cubic yards of fill resulting in approximately 1,100 cubic yards of import. Since the total grading (3,900 cubic yards) exceeds 1,000 cubic yards, Planning Commission approval of a Preliminary Grading Plan is required.

Except for Strada Common, all private streets drain to a concrete valley gutter in the center of the street. Strada Common is sloped one way and runoff is collected in a curb and gutter along the west side. Runoff from paved areas will be treated in landscape based treatment measures and in-ground treatment vaults before connecting to existing public storm drain facilities. The details of the proposed on-site storm drainage system and connection to public main will be included with the improvement plans for the project. The drainage system shall be subject to approval of the City Engineer and the Alameda County Flood Control and Water Conservation District (ACFC&WD).

Water Service and Water System:

The project proposes to install an on-site public water main from a new connection to the existing water main in Blacow Road. Approximately half of the townhouses, two on-site fire hydrants, and the irrigation for the common open space will be served from the new water main. The remaining townhouses will be served from water meters installed along the Blacow Road and Fremont Boulevard street frontage. Staff supports the proposed water system design because a public water main will be owned and maintained by the Alameda County Water District (ACWD), whereas a private main would be owned and maintained by the homeowners association.

As the project design is further developed into construction drawings for subdivision improvements and building permits, the competing interests for area needed for utilities, buildings, landscaping, and streets may result in a modification to the proposed water system. Should the water system be modified such

that it no longer meets ACWD requirements for a public system, then a private system may be constructed. Specific conditions of approval (#7 and #23 through #31) have been included to address the water system and potential modifications to the system design.

Urban Runoff Clean Water Program:

The Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit requires all new development to incorporate measures to prevent pollutants from being conveyed in storm water runoff and into the public storm drain system. This project is required to comply with the NPDES permit by incorporating treatment measures into the project design.

The project intends to meet the quantitative storm water treatment requirements by installing two (2) vegetative bio-swales and four (4) above grade flow-through planters to treat 56% of the total impervious area. The remainder of the site is being treated in underground vaults with media based filter cartridges. The storm water treatment design shall be integrated into the storm drain design for the project and shall be subject to review and approval of the City Engineer prior to final map approval.

As required by the Alameda Countywide NPDES Municipal Stormwater Permit, the property owners shall enter into a maintenance agreement for the long-term operation and maintenance of stormwater treatment measures. The agreement will require the ongoing maintenance of all the designated treatment facilities, including periodic replacement of media filter cartridges in the storm water treatment vaults. The property owners shall also integrate a sidewalk and pavement sweeping program to help prevent debris and other pollutants from entering storm drains.

Geologic Hazards:

The project site is within an area of potential Earthquake Induced Liquefaction Zone on the official Seismic Hazard Zone maps, released by the State Geologist. In accordance with the State law, the project geotechnical engineer prepared a seismic hazard report. The geotechnical report was peer reviewed by the City of Fremont's consultant and approved by the City and filed with the State Geologist. The project improvements and building construction will conform to the recommendations of the seismic hazard report and peer review.

FEMA Flood Zone:

The eastern half of the project site, adjacent to Laguna Creek, is located within the 100-year floodplain as defined by the Federal Emergency Management Agency (FEMA). To develop within the floodplain, all new structures must be built with the lowest floor above the base flood elevation. In this case the base flood elevation is determined and varies between 42 and 43 feet. All the homes are proposed to be elevated above the base flood elevation. The developer shall submit to FEMA an application to remove the townhouse lots from the floodplain based upon the fill being placed on site. The project storm drain system shall be designed such that there is no increase in the 100-year floodplain along Laguna Creek.

Applicable Fees:

This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, park facilities, park land in lieu, capital facilities and traffic impact. The developer is entitled to a development impact fee credit of for the demolition of the existing 11,624 square foot retail buildings. All applicable fees shall be calculated and paid at the fee rates in effect at the time of building permit issuance.

Environmental Review:

An Initial Study and Draft Mitigated Negative Declaration have been prepared for this project. The environmental analysis identified concerns regarding potential noise impacts to units 1-8 (Buildings 1 and 2) and 35-38 (Building 8) from the arterial streets that bound the project. The Draft Mitigated Negative Declaration also identified potential impacts to air quality as a result of demolition and construction activities at the site. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

Mitigation measures:

Final project design details shall adhere to preliminary construction techniques recommended mitigation measures for openings, wall assemblies and mechanical air ventilation systems as outlined in the Illingworth & Rodkin, Inc. January 2009 noise study. Prior to the issuance of a building permit, a plan indicating the sound rating of the windows and doors (both lower and upper floors) of each unit shall be submitted to the City for review and approval and include certification of final details on construction techniques and materials from a qualified acoustical consultant as meeting General Plan Health and Safety standards of outdoor noise exposure limitation noise exposure levels of 45 dBA L_{dn} in all habitable rooms and instantaneous noise levels of 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other habitable rooms. The project plans shall include indications of mechanical ventilation as part of the home design when interior noise standards can only be met when windows are closed.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 124 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on February 27, 2009. A Public Hearing Notice was published by *The Tri-City Voice* on February 20, 2009. The recommended action at the March 12, 2009 hearing was to continue the item to the April 9, 2009 hearing.

In addition, courtesy signs were posted on the project site during application review, providing notice to the public regarding the development. A community meeting was held by the developer on March 5, 2009, for which approximately 130 notices were sent. No one from the public attended the community meeting.

ENCLOSURES:

Exhibits:

- Exhibit "A" Mitigated Negative Declaration and Mitigation Monitoring Plan
- Exhibit "B" Site plans, floor plans, architectural elevations, conceptual landscaping plan
- Exhibit "C" Vesting Tentative Tract Map 8001, including Preliminary Grading Plan and Private Street Plan
- Exhibit "D" Findings and Conditions

Informational Items:

1. Initial Study
2. Fire Department general requirements

Supplemental Hearing Materials:

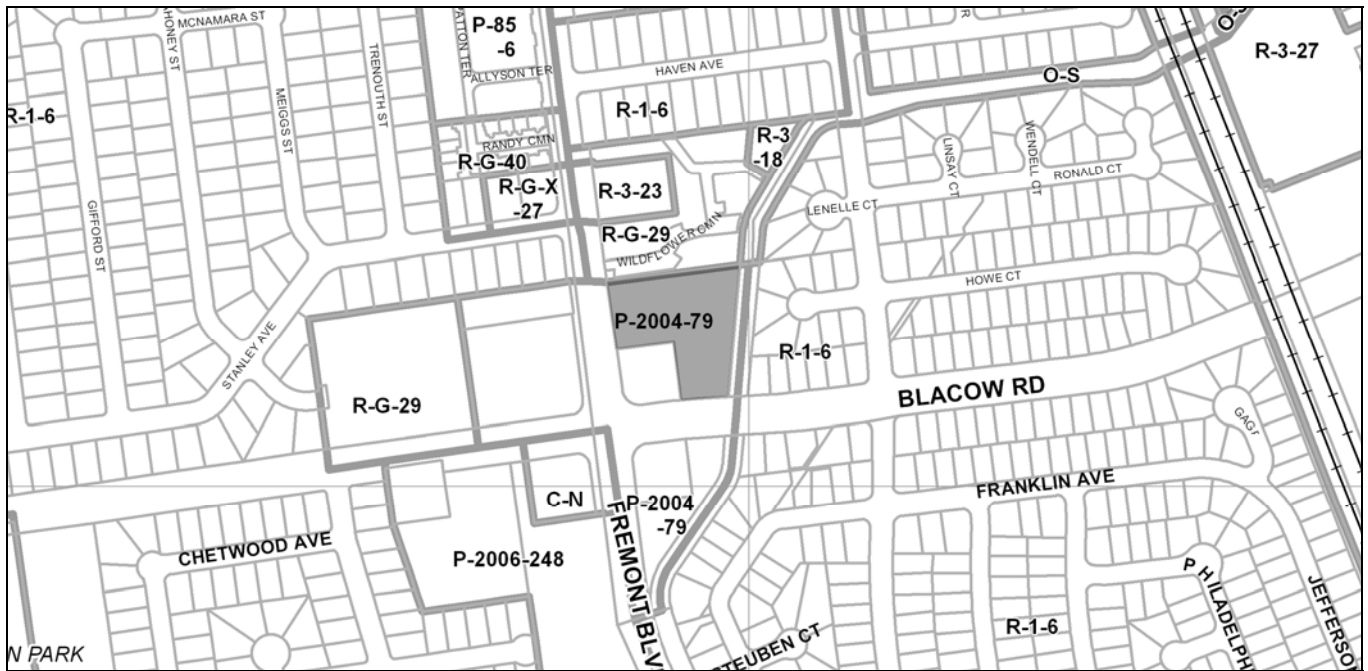
1. Colors and Materials board

RECOMMENDATION:

1. Hold public hearing.
2. Recommend that the Planning Commission adopt a Mitigated Negative Declaration and Mitigation Monitoring Plan and find that there is no substantial evidence that the project, as mitigated, will have a significant effect on the environment and further finding that this action reflects the independent judgment of the City of Fremont.
3. Find the proposed project is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report.
4. Recommend that the Planning Commission approve the proposed project, as shown on Exhibits "B" and "C", subject to findings and conditions in Exhibit "D".

Existing Zoning

Shaded Area represents the Project Site



Existing General Plan

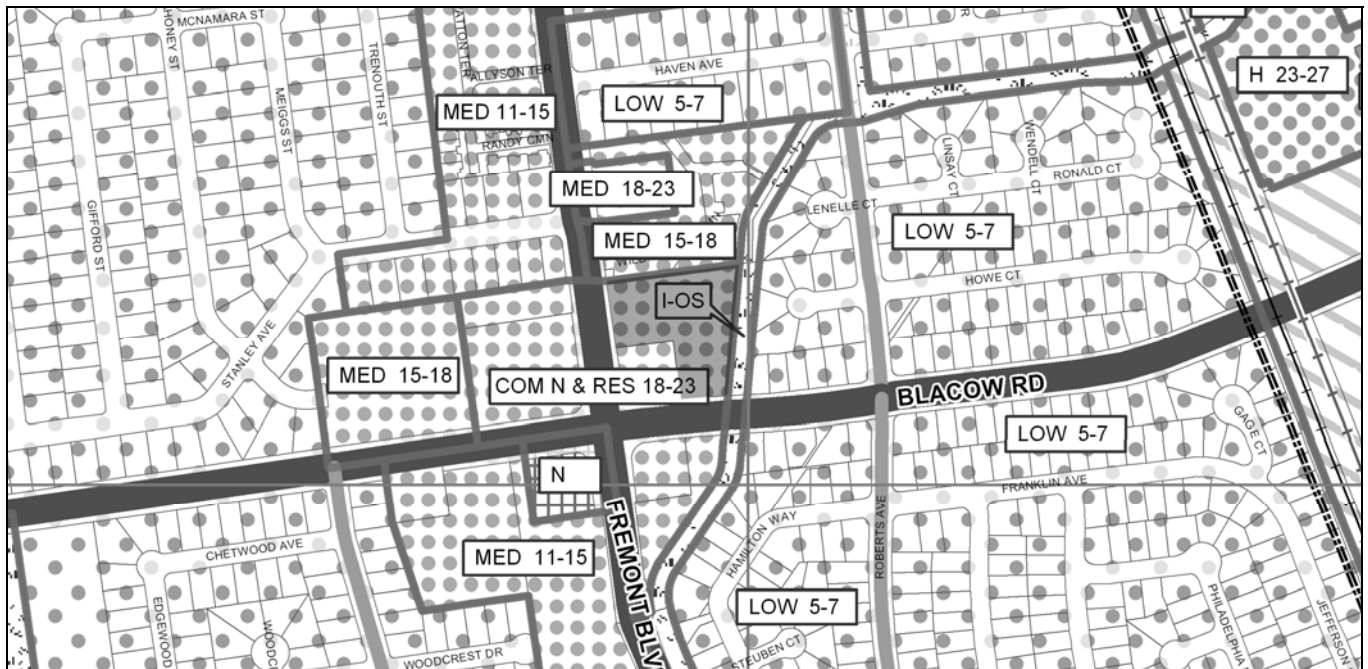


EXHIBIT "D"
Findings and Conditions of Approval
For PLN2009-0089, Lunare Townhomes Site Plan & Architecture, Vesting Tentative Map 8001,
Preliminary Grading Plan and Private Street Plan
42100 Blacow Road

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Planning Commission dated April 9, 2009, incorporated hereby.

Site Plan and Architectural Approval Findings:

1. Find that the proposed project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Housing and Land Use Chapters as enumerated within the staff report.
2. Find that proposed project is in conformance with the standards and policies of the R-3 zoning standards, as governed by P-2004-79 because the project meets the density, height, lot siting, lot coverage and open space standards defined by the R-3 zoning district.
3. Find that the proposed project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures and incorporated as conditions of approval for the proposed project.

Planned District Special Findings (P-2004-79):

4. Find that through the implementation project refinements, the proposed architecture will be superior quality and will enhance the scenic qualities and compliment the character of the area and be an attractive feature for Fremont and the Irvington Planning Area.
5. Find that the proposed site plan has provided for appropriate pedestrian connections to nearby features via the proposed pathways that are present on all sides of the parcel not served by sidewalks. Units that front onto the arterial streets that bound the project site have individual walkways from unit porches directly connecting to the public sidewalks. Vehicular access to the site has been designed to minimize impacts to adjacent thoroughfares in that the internal street system is linked to one designated point from Blacow Road, save for the Emergency Vehicle Access Easement that is present for the existing drive aisle from Fremont Boulevard that serves as access for the non-subject commercial property on the immediate corner of Fremont and Blacow.
6. Find that the proposed driveways and guest parking spaces are located, to the degree feasible, away from the corner of Fremont Boulevard and Blacow Road. The driveway proposed for the project is located approximately 180 feet east of the intersection of Fremont Boulevard and Blacow Road. Only one drive aisle is proposed as a component of this proposal. Guest parking spaces, as shown in Exhibit "B", are located approximately in the center of the site.

7. Find that proposed access is designed so as to minimize impacts to adjacent thoroughfares. The proposed access is utilizing one of three existing driveways to the site. The other two will be eliminated. However, an existing drive aisle from Fremont Boulevard to the adjacent commercial property site will remain as there is an existing Emergency Vehicle Access Easement where that drive aisle meets the future private street "Strada Common". Therefore, the current proposal meets this requirement by not proposing additional access points that would adversely impact adjacent thoroughfares, and by eliminating several accessways that could potentially impact the thoroughfare on the adjacent property. As described in the report, staff will be working with the property owners of both sites to ensure optimal access conditions for both.

Vesting Tentative Map 8001 Findings:

8. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance, because the procedural requirements of the Map Act are being followed.
9. The proposed Vesting Tentative Map, together with the proposed site design, utility plan and street improvements is consistent with the General Plan land use designation of Medium Density 18-23 dwelling units per acre for the site, as it meets the midpoint of 20.5 units per acre.
10. The site is physically suitable for the type and proposed density of the development, because it is consistent with the General Plan and Zoning designation existing for the site.
11. The design of the site and the type of improvements are not likely to cause serious public health problems, because the review process of the subdivision has taken those concerns into consideration and has found the proposal in conformance with the City of Fremont's policies.
12. The design of the project and the type of improvements will not conflict with any existing easements required for the public at large for utilities or access within the proposed development. As part of the proposal, the applicant will be dedicating public utility and access easements to provide access to and serve the new neighborhood and its' public infrastructure.

Preliminary Grading Plan Findings:

13. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.
14. The proposed project described in the application will not result in geologic or topographic instability on or near the site. A peer reviewed geotechnical evaluation of the site was conducted and the proposed project will implement all geotechnical recommendations, as conditioned.
15. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The design team has designed a conceptual stormwater retention and treatment plan, which has been

analyzed as part of this application. Appropriate standards for development and storm water Best Management Practices (BMP) will implement goals of the Alameda Countywide Clean Water Program. The project also includes standard practices described below to address stormwater runoff standards for compliance with City NPDES requirements and erosion control measures to prevent soil, dirt, debris, or other pollutants from entering the storm drain system and natural watercourses during and after construction.

16. The proposed development is within a special studies zone for Earthquake Induced Liquefaction as shown on official maps issued by the State Geologist, however a special study was completed for the project and the study concluded that the site is feasible for the proposed development. The special study was reviewed and approved by the City and filed with the State Geologist.
17. The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.
18. The most logical development of the land requires private street access because the physical character of the project is more amenable to the less intense right of way required of a private street.

Private Street Findings:

19. The proposed private street network will be constructed of materials designed to withstand the expected residential traffic load for a minimum duration of thirty-five years.
20. Provided street width, unit parking count and guest parking provided on site satisfies Building and Fire Codes, as well as FMC Section 8-220033(2) which governs multi-family residential parking requirements for the City.
21. Private street network is intended as circulation and access routes for vehicular traffic and will at no time function as parking or loading areas for vehicles within the minimum specified street width, with exception granted for the private streets when functioning as EVAE's.
22. Safety lighting consistent with City of Fremont standards for all private streets and pedestrian walkways shall be installed.

CONDITIONS OF APPROVAL:

General Conditions

- 1) The project shall conform substantially with Exhibits "B" and "C" (Site and Floor Plans, Architectural Elevations and Conceptual Landscape Plans; and Vesting Tentative Tract Map 8001, Preliminary Grading Plan, and Private Street Plan) and all conditions of all approval set forth herein.
- 2) The owner shall submit plans to the Development Organization (DO) for review and approval to ensure that conformance with these conditions herein, as well as with relevant codes, policies, and other requirements of the Fremont Municipal Code.

- 3) Minor modifications to the approved building designs, elevations and colors may be made, subject to review and approval of the Planning Director or his/her designee if such modifications are in keeping with the architectural statement of the original approval. However, the Planning Director shall retain the authority to determine the level of review required, including a Planning Commission review.
- 4) The project shall be subject to all City-wide development impact fees. These fees may include, but are not limited to, park dedication in-lieu fee, fees for fire protection, park facilities, capital facilities and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance. An impact fee credit for the existing 11,624 SF shopping center will be applied to the first permit issued.

Legal Requirements/Agreements/Deed Restrictions

- 5) The applicant shall include language in the Covenants, Conditions and Restrictions (CC&R'S) to ensure that buyers are informed that the school district makes the determination regarding school locations.
- 6) A Homeowner's Association shall be formed and shall covenant and be responsible for the maintenance of all commonly owned facilities, including the private street (or private vehicular accessway), which are not maintained by the public utility agency. CC&Rs, including these imposed conditions, shall be submitted to the Development Organization (or during the tract map improvement plan review process) for review and approval.
- 7) The Homeowner's Association shall be required to contract with a professional management firm to handle maintenance operations and waste/recycling collection procedures. If the Homeowner's Association owns an on-site water main and fire hydrants, then the CC&Rs shall require the professional management firm to contract with a utility service company that provides annual inspection and maintenance of the private water system. Documentation of such contract shall be submitted to the City. All commonly owned facilities shall be well-maintained in a good condition.
- 8) No exterior additions to the residential structures, including the addition of pre-manufactured sun rooms and patio covers, shall be permitted.
- 9) The exterior parking of boats, campers, and trailers on the site are prohibited. In no event shall household storage preclude the parking of vehicles in a garage area, and all parking spaces designated for guest parking shall be restricted for guest usage only. **All new occupants and property owners at the time of purchase or lease shall receive a separate notice on bright color paper of this condition.**
- 10) In the interest of aesthetics, uniformity in appearance, safety and security, all garage doors shall be maintained in a closed position, except during entering or exiting movements from the garage.
- 11) All roof-mounted and other mechanical equipment shall be screened from view from adjacent public rights-of-way and internal private streets.

- 12) Garbage, trash or recycling containers shall be suitably concealed in an area dedicated within the garage of each unit, except such features may be placed at curbside on the designated garbage pick-up day.
- 13) No power equipment, hobby shops, car maintenance (other than emergency work) shall be permitted within the private garage areas where such activities would displace normal use of the garages for day to day parking purposes.
- 14) Developer is to provide a complete set of construction plans to the Homeowners' Association at the time of its formation.
- 15) A total of 6 units in the 38-unit "Lunare Townhomes" development project shall be available for participation in a **Below Market Rate (BMR)** affordable housing program, subject to review and approval of the Office of Housing and Redevelopment. The BMR Master Development Agreement shall run with the land, made part of the project's conditions of approval and shall be recorded on the property titles of each parcel designated for the BMR sales program.

The BMR Master Developer Agreement shall include the following provisions:

- BMR units must be affordable to families earning no greater than 110% or below of the county median income as defined by the United States Department of Housing and Urban Development in effect at the time of sale;
- Units shall only be available to eligible first time homebuyers as defined under the California Housing Finance Agency. To the extent permitted by law, preference shall be given to those who currently live, work, or previously lived in the City of Fremont;
- To insure long-term affordability, and to assist the greatest number of families over the longest feasible time, BMR units shall be subject to resale restrictions under individual agreements developed by the City of Fremont, which shall be binding for a minimum of 30 years, renewable upon resale;
- The BMR sales price shall be computed at the time of building permit issuance. They are currently as follows:

For a two bedroom unit, the sales price shall be computed based upon the maximum program restricted income for a family of three times a multiplier of 3.5, and for a three bedroom unit, the sales price shall be computed based upon the maximum program restricted income for a family of four times a multiplier of 3.5. As of April 2008, the sales prices are:

2008 BMR sales price:

2 bedrooms (family of 3 at 110% of area median income): \$298,375

3 bedrooms (family of 4 at 110% of area median income): \$331,450

4 bedrooms (family of 5 at 110% of area median income): \$358,050

The City of Fremont Office of Housing and Redevelopment will conduct the Buyer Selection process and will provide eligible homebuyers to the Developer. The selection process will be described in the BMR Master Developer Agreement. The BMR Master Developer Agreement shall be accepted and executed prior to approval of Final Map #8001.

- 16) Pursuant to Government Code Section 66474.9, the Subdivider, or any agent thereof, or successor thereto, shall defend, indemnify, and hold harmless the City of Fremont, its officials, employees or agents (collectively "City") from any claim, action or proceeding against the City to attack, set aside, void, or annul, the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the sub-divider of any such claim, action, or proceeding and cooperate fully in the defense.
- 17) Municipal solid waste (MSW), recycling and yardwaste collection services are required for all residential properties. Services are provided by Allied Waste Services (AWS) on an exclusive franchise basis.
- 18) The owner shall work with the City to draft an irrevocable offer of easement dedication for the neighboring commercial property to the south to facilitate future site access through the subject site's proposed private street Cerchio Terrace. Additionally, the owner shall work with the City and the property owner to the south to facilitate an ingress/egress easement for the existing driveway off of Fremont Boulevard.

Special Project Considerations

- 19) Mitigation Measures:
The mitigation measures that follow shall be implemented at pre-, during, and post-construction intervals as listed below.

Mitigation Measure #1 - Dust Control:

Prior to issuance of a permit, the following measures shall be included in a dust control plan and noted on construction plans with the contact information for a designated contact person responsible for the on-site implementation of the dust control plan.

- a. *Water all active construction and site preparation work areas at least twice daily and more often during windy periods.*
- b. *Cover all hauling trucks or maintain at least two (2) feet of freeboard on all loads.*
- c. *Pave, apply water at least twice daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas and staging areas.*
- d. *Sweep daily with water sweepers all paved access roads, parking areas, and staging areas, and sweep streets daily with water sweepers if visible soil material is deposited onto adjacent roads.*
- e. *Apply hydroseed or non-toxic soil stabilizers to inactive construction areas (i.e., previously-graded areas that are inactive for a period of 10 days or more).*
- f. *Enclose or securely cover all exposed stockpiles.*
- g. *Replant vegetation in disturbed areas as quickly as possible.*
- h. *Suspend any unmitigated construction activities that cause visible dust plumes to extend beyond the job site.*

This mitigation measure shall be implemented during and post-construction.

Mitigation Measure #2 – Cultural Resources:

Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5.(e) and (f) for notification and evaluation will be followed to reduce impacts to a less than significant level.

This mitigation measure shall be implemented during construction.

Mitigation Measure #3 – Noise Impacts:

Final project design details shall adhere to preliminary construction techniques recommended mitigation measures for openings, wall assemblies and mechanical air ventilation systems as outlined in the Illingworth & Rodkin, Inc. January 2009 noise study. Prior to the issuance of a building permit, a plan indicating the sound rating of the windows and doors (both lower and upper floors) of each unit shall be submitted to the City for review and approval and include certification of final details on construction techniques and materials from a qualified acoustical consultant as meeting General Plan Health and Safety standards of outdoor noise exposure limitation noise exposure levels of 45 dBA Ldn in all habitable rooms and instantaneous noise levels of 50 dBA Lmax in bedrooms and 55 dBA Lmax in other habitable rooms. The project plans shall include indications of mechanical ventilation as part of the home design when interior noise standards can only be met when windows are closed.

This mitigation measure shall be implemented pre-, and during construction.

- 20) Prior to issuance of a permit for land disturbance greater than one acre, the developer shall file a Notice of Intent with the State of California Water Resources Control Board and receive the State assigned WDID number. The developer shall provide a copy of the Storm Water Pollution Prevention Plan (SWPPP) for City review and maintain a copy on the job site.
- 21) Prior to final map approval, the developer shall apply and receive approval of a conditional letter of map revision based on fill (CLOMR-F) from the Federal Emergency Management Agency. The CLOMR-F shall be based upon the grading plan for the project and the CLOMR-F shall conclude that lots proposed to have structures for human occupancy will be removed from the special flood hazard area.
- 22) Prior to occupancy of any buildings within the special flood hazard area, the developer shall apply for and receive approval of a letter of map revision based on fill (LOMR-F) from the Federal Emergency Management Agency. The LOMR-F shall be based upon the as-built grades of the building pads and shall determine that the pads are no longer within the special flood hazard area.
- 23) The on-site water main and fire hydrants shall be public, as shown on the Vesting Tentative Map, and shall conform to the Alameda County Water District (ACWD) Standard Specifications for Water Main Installation (see also Condition #24). In the event that the final design of the on-site water main and fire hydrants do not conform to ACWD standards and requirements for public water mains, then one of the following alternatives shall apply, subject to review and approval of the City Engineer and ACWD:

- a. Water services for the project shall be served by individual water meters banked along both Fremont Boulevard and Blacow Road, and on-site hydrants shall be served by one or more detector check valves located in the landscaped area fronting Fremont Boulevard and/or Blacow Road (see also Condition #25).
 - b. Water services for the project shall be served by redundant master metered domestic service connections and redundant private fire service connections to serve a private on-site water system (see also Condition #26).
- 24) A on-site public water system shall conform to the following:
- a. In locations where the water main runs parallel to parking areas and where the street is wide enough to accommodate it, water mains shall be 7-feet from face of curb on north and east side of streets (ACWD Dev. Specs. 1.4.3.1).
 - b. Banked water meters shall meet ACWD clearance and installation requirements. Each meter and meter box shall be labeled with the address of the townhouse it serves.
- 25) A public water system served by individual water meters banked along Fremont and Blacow Road shall conform to the following:
- a. Adequate space must be provided for the installation of meters, meter boxes, and fire services. Installation locations shall meet all ACWD clearance requirements, including clearance from trees and driveways.
 - b. Fire services to serve any on-site private fire hydrants shall be served by buried detector check valves located along the Fremont Boulevard and/or Blacow Road frontage. If more than one fire service is needed to serve the project, an above-ground reduced pressure principle assembly (RP) may be required behind each detector check valve. Adequate space must be provided along the frontage of Fremont Boulevard and/or Blacow Road in suitable locations for their installation.
- 26) A on-site private water system with master meters shall conform to the following:
- a. Redundant master metered domestic service connections and redundant private fire service connections shall be provided, with one domestic and one fire service provided along both Fremont Boulevard and Blacow Road., with above-ground backflow prevention devices. Each domestic (and irrigation, if applicable) connection will have an above-ground reduced pressure principle assembly (RP) located behind a meter; each fire service connection will have an above-ground reduced pressure principle assembly (RP) located behind a detector check valve.
 - b. Master meters serving domestic service shall be contained within below-ground vaults. The vault and service lines should be located to provide a minimum clearance of five feet from other utilities and from trees. Service lines should maintain a minimum horizontal clearance of five-feet from any parallel water service line, such a fire service line. Space must also be provided for the required private backflow prevention devices.

- c. The redundant master metered domestic connections and redundant fire service connections shall result in a looped private internal water system to minimize service disruptions during repairs or maintenance to public water mains, meters or service lines.
 - d. The developer shall install sub-meters for all units that are served by a master water meter. Prior to submitting subdivision improvement plans, the developer shall determine what criteria, if any, the California Department of Food and Agriculture, Division of Measurement Standards, will require for sub-meters serving the project. The developer shall submit verification of sub-meter installation to the City and ACWD.
- 27) Public water facilities, or any part thereof, on private property must be located within easements dedicated to ACWD and these easements must extend a minimum of 5-feet around the perimeter of the facilities.
 - 28) Public water facilities, including meter boxes, shall be located to provide a minimum clearance of 5-feet from trees.
 - 29) Meters shall be installed in planter areas adjacent to and behind curbs. If sidewalks are located immediately behind curbs, meters shall be installed in planter areas adjacent to and behind sidewalks. Meters will not be allowed in driveways or sidewalks.
 - 30) Irrigation and other non-residential domestic services, if needed, will require an approved, above-ground backflow prevention device. Adequate space and access must be provided for the meter, meter box and the adjacent backflow prevention device.
 - 31) For any modification of water service to the property the owner should contact the ACWD Engineering Department. Should any structures receiving water service be demolished, project proponents should contact ACWD at least 30 days prior to any demolition to request the existing water meter be disconnected or removed at no cost in order to protect ACWD's distribution system from activities related to the demolition. Any existing services not used by the proposed project must be abandoned by ACWD at the expense of the developer.

Prior to the Issuance of Building Permits (Plan Details, and/or Modifications Required)

Site and Architectural Design

- 32) Utility lines shall be located so as not to prohibit the placement of landscaping in between garage units or buildings.
- 33) All utility and fire appurtenances, meters and risers shall be concealed or screened from view by materials of a design and composition compatible with the architectural treatment of the project. Utility closets shall be sufficient in size to accommodate the necessary utilities.
- 34) The owner shall provide automatic fire extinguishing systems for each residence within the development, subject to the review and approval of the Development Organization review process.

- 35) The owner shall work with PG&E on the locations of all underground transformer vaults. To the degree feasible, transformer vaults should be located in inconspicuous areas on the project site.
- 36) The applicant shall work with the property owner to the north of the subject site property owners to ensure that the construction activities do not negatively impact the existing redwood trees located on that property, the canopies of which overhang to the subject parcel.
- 37) All required screening walls shall be constructed "of masonry of a decorative design approved by the Development Organization." A landscaping alternative to the masonry wall is acceptable, provided the plans for which are submitted to and approved by the Development Organization at the time of building permit submittal. A written request for waiving the masonry wall requirement and replacement with a landscaped alternative screening is required as well as detailed plans, pursuant to FMC Section 8-22009(a)(8). The provided plans show a fence constructed of wood, staff will work with the applicant during the DO stage to bring the proposal into compliance with this Code section.
- 38) The proposed pedestrian walkways shall be of the same materials and colors as the pavers proposed as links between buildings.
- 39) All units shall be pre-wired with exterior junction boxes to provide satellite dish cable connections. In addition, all bedrooms, including the living room, shall be pre-wired with phone and cable connections. No external wiring of these utilities shall be permitted.
- 40) All recommendations for the exterior window/wall components to meet the structures' interior noise standard Day-Night Average Sound Level (DNL) of 45 decibels (dB), included in the Noise Study 08-205 (January 2009) prepared by Illingworth & Rodkin, Inc., shall be completed.
- 41) The owner shall install curb ramps on-site at all drive aisles with sidewalks to be accessible.

Planting & Irrigation, Hardscape and Lighting

- 42) The owner shall, as mitigation for the removal of one (1) Magnolia tree, install a 36" box specimen tree to be planted in the common open space. The specific tree species shall be determined during the Tract Improvement Plan Review process.
- 43) The owner shall install street trees on Fremont Boulevard which shall be Flowering Pear at approximately 35' O.C. All Street trees shall be a minimum 24" box size and will be subject to the review and approval of the City's Urban Landscape Supervisor.
- 44) The owner shall ensure that all site amenities in the common open space area are fully accessible.
- 45) The owner shall ensure that branches from mature trees may not overhang buildings and roofs. Adequate space to plant trees adjacent to buildings or other built features must be provided in the following minimum ways:

- a. Small trees (to 15 feet tall) no closer than 6 feet from building or 2 feet from paving, curbs, or walls with a minimum planting area 5 feet wide.
- b. Medium trees (to 30 feet tall) no closer than 10 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide.
- c. Large trees (above 30 feet tall) no closer than 15 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide, preferably 8 feet wide.

The planting design shall be refined to maximize planting opportunities and to meet the above space requirements.

- 46) All planting areas containing trees shall be free of all Utility Structures (including light standards) and other built features consistent with the spacing requirements of City Standard Detail Street Tree Clearances.
- 47) Screening elements and/or appropriate landscaping shall be provided for all ground-level mechanical/utility equipment and appurtenances.
- 48) Landscape plans shall be submitted with Final Map Improvement Plans for review and approval, indicating full details regarding (1) paving materials and textures of walkways and paved pedestrian areas, (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures, and (3) landscaping of site and open areas. As part of the landscape plans the applicant shall submit:
 - a. A Layout Plan to illustrate the design of all hardscape elements including walls, fences, gates, light locations, at grade or above grade utility boxes and vaults, walkways and decorative pavement.
 - b. An automatic underground irrigation plan utilizing low flow, durable, and irrigation equipment that limits overspray onto pavement, walls and fences. Irrigation system shall be designed to require minimum maintenance.
 - c. Construction details of raised planters, walkways, paths, benches, walls, fences and other architectural features as appropriate to the project.
 - d. A Tree and Utility Coordination Plan
- 49) Landscape based storm water treatment measures shall not reduce the usable common open space intended for recreational use nor result in the loss of trees shown on the entitlement plans.
- 50) The final Building Permit plans as approved through the Development Organization review process shall include, as reference, the Landscape Plans approved through Final Map Improvement Plan Review.
- 51) The final landscape plans shall be prepared by a licensed landscape architect and shall be submitted at a minimum scale of 1"=10' to match the civil plans and for greater legibility. The design shall be refined so that the plants specified can grow to maturity within the space

provided and that the maximum amount of turf shall not exceed 25% of the irrigated landscape area. Final design of the landscape plans shall be subject to review and approval during the Final Map Improvement Plan Review process.

- 52) Upon completion of the work, the owner must file a Waste Disposal & Diversion Report documenting actual diversion and disposal of construction and demolition debris, along with receipts and weigh tags. A copy of the Waste Handling Plan and the Waste Disposal & Diversion Report forms are found in the Waste Handling Guidelines document.
- 53) Front and rear illuminated housing address numbers so that the address can be viewed from both the front and rear of the units. Design of which to be approved prior to the issuance of a building permit.
- 54) Adequate lighting of parking lots, driveways, passageways, recesses, grounds and open space/play area shall be provided with enough lighting of sufficient wattage to provide adequate illumination to make clearly visible the presence of any person on or about the premises during the hours of darkness and provide a safe secure environment. Lighting and illumination plan to be submitted for review at the DO stage.

Public Safety Requirements

- 55) Lights shall utilize "vandal resistant" enclosures and shall have sufficient power and spacing to provide an average maintained foot candle level of 0.12.
- 56) The owner shall submit a detailed geotechnical report with the first building permit plan check, including recommendations regarding pavement structural sections, prepared by a qualified engineer registered by the State of California. The soils report shall include specific recommendations for on site pavement areas that will experience repeated exposure to heavy vehicle loads. The subdivision improvement plans, including utility plans, shall be designed in accordance with the required geotechnical report. Grading operations shall be supervised by an engineer.
- 57) Fire sprinkler system Group R-1/R-3 Occupancies shall have residential sprinkler heads in dwelling or guest portions of the building. The sprinkler system shall provide protection to at least all of the following areas garages, carports, bathrooms, concealed spaces, water heater/furnace rooms, closets, laundry rooms, attic spaces, under walks, or overhangs, balconies or decks, floor landings if wholly or partial enclosed, covered guest carports or other areas as required.
- 58) Separate permit is required for the fire sprinklers.
- 59) The applicant shall comply with the provisions of the permits required from any state or regional agencies, including, but not limited to, the Bay Area Air Quality Management District (BAAQMD), Regional Water Quality Control Board (RWQCB), Union Sanitary District's (USD) POTW and the Alameda County Department of Environmental Health.

- 60) The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.
- 61) The applicant must submit a Phase 1 and/or Phase 2 environmental site assessment(s). Additional requirements, remediation and/or clearances from Alameda County Health Department, Alameda County Water District, Regional Water Control Board, Department of Toxic Substances Control, or other agencies may be established subsequent to staff's review.

Subdivision

- 62) The project shall conform to Exhibit "C" (Vesting Tentative Map 8001), all conditions of approval set forth herein, and the conditions of approval of P-2009-89.
- 63) Approval of Vesting Tentative Tract Map 8001 shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Fremont Municipal Code consistent with the State Subdivision Map Act. This Vesting Tentative Tract Map shall expire twenty-four (24) months after the date of tentative map approval unless tentative map extensions are approved in accordance with the State Subdivision Map Act.
- 64) The final map and subdivision improvement plans shall be submitted to the Engineering Division for review to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
- 65) Approval of the Preliminary Grading Plan (PLN2009-00089) shall run concurrent with the approval and subsequent extensions of Tentative Map 8001. Approval of this Preliminary Grading Plan shall terminate upon the expiration of Tentative Map 8001.
- 66) Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
- 67) A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
- 68) Site grading must not obstruct natural flow from abutting properties or divert drainage from its natural watershed. The drainage area map developed for the drainage design for this project shall be based on the original drainage area map developed for the existing storm drain system and shall clearly indicate all areas tributary to the project site.
- 69) All retaining walls supporting surcharge shall be reinforced concrete or approved equal. Pressure treated wood retaining walls (including "kicker boards") will be allowed for retaining walls 12-inches or less in height.
- 70) The applicant may be allowed grading deviation up to a maximum of one foot (plus or minus) between the preliminary grading plan and the final grading plan. Deviation over one foot may be referred to the Planning Commission, subject to approval of the City Engineer.

- 71) The Geotechnical Engineer shall be retained by the developer to review the final grading plans and specifications. The developer's Geotechnical Engineer shall approve the grading plans prior to City approval of the subdivision improvement plans or issuance of the grading permit.

Streets, Right-of-Way and Utilities or Public Improvements

- 72) Private Streets: The owner shall dedicate private street right-of-way and install complete street improvements for the proposed private streets within the development.
- 73) Common area subdivision improvements, private streets, and all other subdivision improvements owned or maintained by the property owners association are subject to review and approval by the City Engineer prior to final map approval. Such improvements include, but are not limited to: vertical curb, curb & gutter, valley gutter and pavement areas; sidewalks, access ramps & driveways; enhanced street paving; private street monuments; street lights (wired underground) and appurtenances; drainage facilities; utilities; landscape and irrigation facilities; open space landscaping and parking areas; stormwater treatment facilities including underground vaults; striping and signage; and fire hydrants. The developer shall bond for these improvements in accordance with FMC 8-1426.
- 74) A minimum of six-foot wide public service easement shall be dedicated along the Blacow Road frontage of the subdivision. Project entry and monument signs and walls shall not be located within the public service easement.
- 75) The owner shall install complete street improvements for Fremont Boulevard across the project frontage. Fremont Boulevard is an arterial street, with two lanes in each direction. Required street improvements include, but are not limited to: removal of the existing driveway; installation of a new concrete bus pad, curb, gutter, sidewalk, and street trees and irrigation as required; and installation of new signs and striping.
- 76) The owner shall dedicate right-of-way and install complete street improvements for Blacow Road. The developer shall dedicate street right-of-way two feet wide along the project frontage. Required street improvements include, but are not limited to: removal of existing sidewalk, curb, gutter, driveway, and approximately 52 feet of asphalt curb along the existing median; installation of new curb, gutter, sidewalk, driveway, median curb, street trees, irrigation, and utilities.
- 77) The required Fremont Boulevard bus pad shall conform to City Standard Detail SD-16. Bus stop improvements shall be coordinated with AC Transit and shall be subject to City Engineer review and approval.
- 78) The applicant shall quitclaim the existing ingress and egress easement (IEE) and record a new IEE as shown on the Vesting Tentative Map 8001 for benefit of the commercial property (APN 525 1646-003-02) by a separate instrument prior to or concurrently with recording the final map.
- 79) Above ground architectural and building features that project over proposed property lines shall be permitted on townhouse and/or condominium units by easement recorded on the final map. Such features include, but are not limited to, eaves, bay windows, balconies, porches, landings, and stairways. The details of these easements, including dimensions and descriptions, shall be

included on the final map. Foundations for condominium units must be contained within the individual lot.

- 80) All existing buildings within the proposed subdivisions shall be demolished prior to recording the final map.
- 81) Pursuant to FMC Section 8-1523, the record owner(s) shall dedicate the required public easements as shown on sheet TM-2 of Exhibit "C". Any additional easements required by the various public utilities and public agencies shall be dedicated prior to final subdivision map approval.
- 82) The streetlight plan and joint trench plan shall be submitted by the developer with the first subdivision plan check for the street improvement plans and final map. The final streetlight plan and joint trench plan shall be completed prior to final map approval.
- 83) The developer shall request PG&E to commence with the design of the utility underground work for the proposed development after the Planning Commissions approval of Tentative Tract Map 8001.
- 84) Existing overhead utilities within the subdivision boundary shall be removed. Utilities to remain shall be relocated underground in appropriate utility easements. The new utility locations are subject to review by the City Engineer.
- 85) All new utility service connections, including electrical and communications, shall be installed underground. Above ground electrical transformers may be installed within an appropriate utility easement or public service easement and properly screened with landscaping.
- 86) The project storm drain system shall conform to City standards and shall be subject to review and approval of the City Engineer and the Alameda County Flood Control and Water Conservation District. Public storm drain alignments shall be straight, unless curved alignments are approved by the City Engineer. Drainage calculations shall be submitted with the grading and drainage plans for the project.
- 87) Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
- 88) The project water system shall conform to Alameda County Water District (ACWD) standards and specifications and shall be subject to review and approval of ACWD and the City Engineer.
- 89) The private street pavement shall be designed on the basis of a traffic index using predicted traffic generation and a thirty-year pavement design life. In no case shall the traffic index be less than 5.5. Asphalt concrete surfacing to be treated with a seal coat of the type and amount required by the City Engineer. Pavement design sections shall be subject to approval of the City Engineer.

- 90) Safety lighting is to be provided on the private street. Lights shall utilize "vandal resistant" enclosures and shall have sufficient power and spacing to provide a minimum maintained foot-candle level of 0.12.
- 91) A signpost, to which is attached a sign having an area of at least fifteen inches by twenty-one inches, is to be installed at or near the private street entrance. The name of the private street is to be placed on this sign in clearly legible four-inch letters. The sign is to have painted, in at least one-inch letters, "Private Property. Not dedicated for public use."
- 92) On-site private streets are to be posted for "No Parking," except in those areas designed to accommodate on-street parking, as shown on the tentative map and planned district site plan.
- 93) The private street names are subject to modification prior to final map approval.
- 94) A Private Vehicle Access Way (PVAW) and a Public Utility Easement (PUE) are to be established over the entire private street right-of-way. The PUE dedication statement on the final map is to recite that the PUE is available for, but not limited to, the installation, access and maintenance of sanitary and storm sewers, water, electrical and communication facilities.
- 95) The developer shall dedicate emergency vehicle access easements (EVAE) over the clear pavement width on private streets within the subdivision. The easement geometry shall be subject to the approval of the City Engineer.
- 96) All entrances to parking areas shall be posted with appropriate signs per 22658(a) Vehicle Code to assist in the removal of vehicles at the property owners/managers/HOA request.
- 97) Driveway with pavers/access road shall meet Fire Department standards for surface type, distance, weight loads (75,000 lbs), turn radius, grades, and vertical clearance. The applicant shall provide red curbs, curb lettering and fire lane signs. This project requires all curbs to be red, lettering every 30 feet and signs every 100 feet.
- 98) The applicant shall provide a 20 ft wide all weather-paving surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed.
- 99) The applicant shall provide the fire hydrant required fire flow on site prior to construction or storage of combustible materials. Fire hydrant jumper lines must be at least 6 inches in diameter. This must be completed and inspected before any construction or material storage will be allowed.
- 100) Fire hydrants are to be located along the private street as determined by the Fremont Fire Department.

Stormwater Facility Design

- 101) In accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831, the property owners shall enter into a maintenance agreement for the long-term operation and maintenance of stormwater treatment measures. The agreement shall run with the land and be recorded at the same time that the subdivision map is recorded.
- 102) The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP) and the developer is responsible that such measures are implemented. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
- 103) All public and private storm drain inlets are to be stenciled "No Dumping - Drains to Bay" using thermoplastic stencils purchased from the City of Fremont Environmental Services Division. Alternative inlet stencils or marking may be permitted, subject to approval by the Environmental Services Division.
- 104) The subdivision improvement plans shall include storm water treatment plans and calculations that comply with City standards and that identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff.
- 105) The concept storm water treatment measures, as shown on Exhibit "C" (Vesting Tentative Map 8001, sheets TM-5 & TM-5A), are for informational purposes only and are not being approved as part of the Vesting Tentative Map 8001. The storm water treatment plan shall be part of the subdivision improvement plans or building permit plans and shall be subject to review and approval of the City Engineer and Environmental Services Manager.

During Construction Conditions (Conditions that must be satisfied on an on-going basis)

- 106) Prior to demolition, excavation and grading on any portion of the project site, all underground obstructions (i.e., debris, septic tanks, fuel tanks, barrels, chemical waste) shall be identified and removed pursuant to Federal, State and local regulations and subject to the review and approval by the City's Hazardous Materials Division. Excavations shall be properly backfilled using structural fill.
- 107) The owner shall provide adequate dust control measures at all times during the grading and hauling operations. All trucks hauling export and import materials shall be provided with tarp cover at all times. Spillage of haul materials and mud-tracking on the haul routes shall be prevented at all times. Any violation shall be subject to the suspension of the grading permit.
- 108) The owner shall provide an erosion control plan, as part of the project plans, subject to review and approval by the City Engineer.

- 109) A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
- 110) This project will generate large amounts of debris that must be recycled, including scrap metal, drywall, wood, asphalt/concrete and roofing material. 100% of the asphalt and concrete must be reused or recycled, and at least 50% of the remaining debris must be reused or recycled from both the demolition and construction phases.
- 111) The owner must submit a City of Fremont Waste Handling Plan prior to beginning any demolition or construction. The Waste Handling Plan must be received and reviewed by Environmental Services before permits are issued.
- 112) During construction, the contractor must ensure that non-recyclable construction and demolition debris (trash) is removed from the site per the Fremont Municipal Code, by one or more of the following ways (FMC IV, Ch 2, 4-2300):
 - a. Contacting the City's franchised waste hauler, Allied Waste Services, to arrange for use of debris box containers for all materials to be landfilled;
 - b. Removal from the premises by the construction or demolition contractor (using their own equipment and vehicles) as part of a total construction, remodeling or demolition service offered by that contractor.
- 113) Plant and tree debris generated from the subject site cannot be mixed with other wastes. The plant debris must be separated from other wastes so that it may be chipped or taken to a composting or fuel facility. As of February 28, 2009, it is illegal to dispose of plant debris in any Alameda County landfill.
- 114) Construction hours will be limited in accordance with Section 8-2205 of the Fremont Municipal Code, and notes to this effect shall be placed on the cover sheet of the construction plans and on an all-weather notice board (format and content specified by City) conspicuously placed adjacent to the most visible right of way for the duration of the construction activity as follows:
 - a. Monday-Friday, 7 a.m. to 7 p.m.
 - b. Saturday & Holiday, 9 a.m. to 6 p.m.
 - c. Sunday, no construction activity allowed

Requirements to be Completed Prior to Request for Final Inspection

- 115) Upon completion of the work, the owner must file a Waste Disposal & Diversion Report documenting the actual diversion and disposal of construction and demolition debris, along with receipts and weigh tags. A copy of the Waste Handling Plan and the Waste Disposal & Diversion Report forms are found in the Waste Handling Guidelines document.
- 116) Prior to the inspection of the roof sheathing, the project manager or supervising general contractor shall contact the Development Organization at (510) 494-4561 for an interim

inspection by Planning Division staff of the structure to ensure that the construction is consistent with the approved architecture and building design.

- 117) A professional engineer registered in the State of California shall be retained to prepare a final grading plan, and upon the completion of the grading submit to the Development Organization a statement that the as-built grading conditions do not deviate from the approved plan by more than one foot of vertical elevation, subject to the review and approval of staff prior to the issuance of occupancy permits for each structure.
- 118) The project architect shall submit a letter to the City certifying that the buildings have been constructed in conformance with the approved architectural plans, subject to the review and approval of the Development Organization.
- 119) The project landscape architect shall submit a letter to the City certifying that the on-site and streetscape (ROW) landscaping have been constructed in conformance with the approved landscape and irrigation plan, subject to the review and approval of the Development Organization.
- 120) Compliance with all conditions listed above under "General Conditions" relating to 'post-construction' mitigation measures (e.g., erosion control).

Ongoing Operational Requirements

Maintenance

- 121) The Homeowner's Association shall be responsible for the maintenance of all common areas. Landscaping shall be designed with an efficient irrigation system to reduce runoff and promote surface filtration and to minimize the use of fertilizers, herbicides, and pesticides which can contribute to urban runoff pollution.
- 122) The Homeowner's Association is to periodically provide educational materials on stormwater pollution prevention (as furnished by the City) to all occupants.
- 123) The Homeowner's Association shall be responsible for litter control and sweeping of all paved surfaces of the private street and within the development. All private storm drain systems are to be cleaned immediately before the commencement of the rainy season (October 15).
- 124) A provision shall be included in the CC&Rs stating that the payment of the utility (e.g., water, energy) bills for all common facilities, including its maintenance, are the obligations of the Homeowners Association.
- 125) An Operations and Maintenance Agreement for Stormwater Treatment shall be submitted and accepted.

END OF CONDITIONS

SUBDIVIDER PLEASE NOTE: The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The sub-divider is hereby notified that the 90-day period in which the sub-divider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the sub-divider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the sub-divider will be legally barred from later challenging such actions.

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PLANNING COMMISSION STAFF REPORT APRIL 9, 2009

Project: FARWELL MEDICAL OFFICE BUILDING - (PLN2009-00123)

Proposal: To consider a Planned District Minor Amendment for Site Plan and Architectural Review, a Planned Unit Development Rescission, and a Finding for Floor Area Ratio increase for a new two-story 32,600 square foot medical office building on a currently vacant and unaddressed parcel.

Recommended Action: Approve, subject to findings and conditions.

Location: Farwell Drive in the Irvington Planning Area.
APN 531-0412-011-00
(See aerial photo next page)

Area: 32,600 square foot proposed building on a 1.4-acre lot

People: Dr. Basil Besh, Applicant & Owner
Anthony Cataldo, Ware Malcomb, Architect
Joel Pullen, Staff Planner (510) 494-4436; jpullen@fremont.gov

Environmental Review: This project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15332, Infill Development.

General Plan: Community Commercial Center

Zoning: Planned District, P-67-2 & Planned Unit Development, PUD-72-5

EXECUTIVE SUMMARY:

The applicant proposes to construct a new 32, 600 square-foot two-story medical office building on a vacant parcel in the Mowry East Shopping center. Although medical office uses are already permitted in the Planned District, the Planning Commission is reviewing a Planned District Minor Amendment for Site Plan and Architectural Review and a Finding to allow a Floor Area Ratio Increase for an additional approximately 2,100 square feet. Associated site development includes a range of vehicular and pedestrian accessways, landscaping, utility connections, drainage and stormwater treatment measures, and grading typically required with new development on a vacant site. Staff recommends that the Planning Commission approve the project subject to findings and conditions of approval.



Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

- North: Mowry East Shopping Center
- South: Hetch-Hetchy Water Line Easement
- East: Single-family homes across Flood Control Channel
- West: Farwell Drive along Mowry East Shopping Center

BACKGROUND AND PREVIOUS ACTIONS:

In 1968, Planned District P-67-2 was approved for a commercial area south of Mowry Avenue between Blacow Road and Farwell Drive. The “Los Arboles I & II” proposal included a phase one commercial project along Mowry Avenue, layout of which was part of Planned Unit Development PUD-71-2, and a phase two apartment project along the southeast side of the property, layout of which was contemplated under PUD-72-5. However, the entirety of the center remained commercial, and the City subsequently approved additional commercial developments over portions of PUD-72-5, including an Orchard Supply Hardware store in 1980 and a Wendy’s drive-through restaurant in 1985 (P-67-2C). Other uses within this commercial block include a bank, auto repair shop, grocery stores, restaurants, and other miscellaneous retail and service uses. The proposed project would represent development of the last vacant parcel within the Mowry East Shopping Center.

When the shopping center was approved in the 1960s, no health services were permitted within the Zoning district upon which Planned District P-67-2 was based. The General Plan designation has since been changed to Community Commercial, and the comparable Zoning district of the same name allows health services as a principally permitted use per FMC 8-21101(b)(19). On March 2, 1995, The Community Development Director approved Planned District Minor Amendment P-67-2K, which allowed “offices and clinics of doctors of medicine, dentists, doctors of osteopathy and other health practitioners” as permitted uses on and near the subject site. There has been a dentist’s office in the shopping center since 1995. The proposed tenants would fall within the range of medical office uses otherwise permitted within Planned District P-67-2

PROJECT DESCRIPTION:

The applicant proposes to construct a two-story, 32,600-square-foot tilt-up medical office building on a vacant parcel between Farwell Drive and Orchard Supply Hardware in the Mowry East Shopping Center. The proposal includes required vehicular and pedestrian access, perimeter and other buffer landscaping, drainage and water treatment facilities, and associated utility appurtenances. See the Design Analysis section for further discussion of the proposed design.

PROJECT ANALYSIS:

General Plan Conformance:

The existing General Plan land use designation for the project site is Community Commercial. The proposed project is consistent with the existing General Plan land use designation for the project site because the General Plan allows for offices, with the focus being “to provide neighborhood and City-wide services.” The following General Plan Goal and Policy are applicable to the proposed project:

FUNDAMENTAL GOAL 8: A diversity of residential, recreational, cultural, employment and shopping opportunities

Analysis: The proposed medical office building would provide jobs in the course of offering medical care to the community.

Policy LU 2.21: New development [in the Mowry/Blacow Community Commercial Center (CCC)] shall be oriented toward integrating and connecting the designated CCC. Site development planning should establish connections between parcels and development projects. Building orientation, setbacks, parking locations and building design shall be evaluated for how each element encourages continuity.

Analysis: The proposed site development plans are consistent with existing development in that they provide a through sidewalk connection from Farwell Drive, proposed driveways connect well with existing driveways, and the building site is consistent with original plans for the development.

Zoning Regulations:

This site lies within the Community Commercial General Plan designation. The C-C Zoning district is most compatible with this particular designation, and forms the basis for permitted uses within this Planned District, P-67-2. As set forth in Section 8-21101(b)(19) of the Fremont Municipal Code (FMC), Health Services are allowed in the C-C district as a permitted use. In 1995, Planned District Minor Amendment P-67-2K allowed offices of doctors of medicine, dentists, doctors of osteopathy and other health practitioners as permitted uses on and near the subject site.

On June 8, 1972, the Planning Commission approved PUD-72-5 for 192 apartment units to be built on the southeast side of the Mowry East Shopping Center. Staff notified the additional property owners that, in conjunction with this proposed building, PUD-72-5 would be formally rescinded. The antiquated PUD would not, in any case, be consistent with the current General Plan or Planned District framework.

The proposed office building would be approximately 32,600 square feet within a 1.4-acre (60,984 square feet) parcel—resulting in a 0.535 Floor Area Ratio (FAR), whereas 0.50 is the maximum normally allowed in the Community Commercial District. This represents approximately 2,100 square feet of additional space. However, the usable interior square footage is approximately 29,000 square feet, and designing for medical services entails oversized equipment storage areas, wider access corridors and gurney-sized elevators due to Institutional (“I”) building code occupancy requirements. The applicant has also proposed limited Monday through Saturday hours from 7 a.m. to 5 p.m. Per FMC 8-21104(i)(3), increases in FAR may be allowed based upon findings in FMC 8-22140.5.

Parking:

The proposed 32,600-square-foot medical office building within the existing shopping center is required to have 1 parking space for each 250 square feet. Therefore, 130 spaces are required to serve this use. There are 1,117 spaces (including bicycle racks) within the shopping center. An existing reciprocal easement agreement (attached as Informational Enclosure 2—see top of page 6) provides for “...nonexclusive easements for the ingress and egress and for the passage and parking of motor vehicles into, out of, on, over and across all parking areas, driveways and service areas from time to time established within the Shopping Center...” The applicant asserts that, because a building of approximately 26,000 square feet was anticipated in the location now being considered for development, this parcel had/has rights to approximately 101 parking spaces out of the total spaces within the shopping center based upon that original building size. The applicant, who has acquired the lot proposed

for development, has designed an additional 72 spaces into his property and is relying upon the reciprocal easement agreement for approximately 59 off-site spaces required by the City (this number could change slightly based upon the landscape conditions attached). In accordance with FMC 8-22006, the City is requiring a condition of approval that the applicant, as an owner within the shopping center area and a party to the reciprocal easement agreement, agree to not take action to modify the existing agreement in a way that would reduce the number of spaces available within the Planned District below the required number of parking spaces. The City is also requiring the applicant to record an agreement on his parcel providing for provision of parking (through off-site parking agreements and/or an on-site parking garage) beyond the expiration date of the existing agreement in 2034 under the parking requirements then in effect.

With the addition of several finger islands by landscape condition, the parking to be provided onsite may be reduced by a few spaces through building permit review, but must remain above the required minimum counting on- and off-site spaces. The applicant has proposed, and staff has conditioned, a commute alternative program to include carpool organization, bicycle encouragement, and free shuttle service to and from BART. See Table 1 for a City of Fremont parking requirement compliance analysis.

Table 1: Number of Parking Spaces Provided by Type

<i>Parking Type</i>	<i># of Spaces</i>
Reciprocal Easement	58
New Standard and Accessible Spaces Onsite	54
New Compact Spaces Onsite [23% planned where 35% is allowed by FMC 8-22003(e)]	16
9-Bicycle Capacity Lockup Rack [8-bike rack counts as one space per FMC 8-22010(a)]	2
Total Parking Provided (32,600/250=130 required)	130

Design Analysis:

Site Planning:

The applicant proposes to construct the building in line with the neighboring Orchard Supply Hardware building, providing a wrap-around driveway with a bordering sidewalk and planter area connecting to the existing on-site spine between Blacow Road and Farwell Drive. The drive aisle directly in front of the tower element features decorative paving for aesthetics and to slow down traffic near the entry.

Architecture:

The proposed two-story office building is a relatively simple rectangular 99' by 167' tilt-up design approximately 33' tall with a projecting tower element of approximately 37' centered on its northwest elevation. The bottom 2/3 of the tower element is wrapped with stone on either side of the two-story glass revealing the primary entry lobby. Symmetrically-simple paired sets of windows with 1/4-sized upper light panes sit one above the other on both floors all the way around the building. There are metal canopies suspended in front of the two-story height of glass above the double-glass doors at the primary entry and above six other single glass doors featuring sidelights and transom windows on various other elevations. A system of vertical and horizontal reveals serves to break up the building façade. An emergency generator enclosure in the corner of the southeast elevation appears to be integrated into the building design in that it is a full story in height and follows the architectural, material, and color pattern for the rest of the building. In addition, a 126-square-foot detached masonry refuse and recycling enclosure in a relatively hidden, but accessible, area near the northeast corner of the site is also provided.

Although “green building” measures above and beyond building code requirements are voluntary for private commercial projects in Fremont, environmentally beneficial features proposed for the project include a cool roof, dual-glazed insulated glass windows where single glazing would be permitted by code, and plans for employee lockers and access to showers for use by bicycle commuters. By virtue of complying with local codes, the building collects various LEED points in such categories as landscape-based stormwater treatment, Title 24 energy requirements, light pollution reduction, water-efficient landscaping, recyclable storage and collection, and the building’s infill location near restaurants, residential neighborhoods, and services.

Open Space/Landscaping:

Approximately 12,000 square feet of landscaping is proposed onsite in a system of parking lot perimeter planting areas, sidewalk borders, and treatment areas. The most usable of these areas is at the rear of the building, which features a sitting area with several tables and chairs and separates the building from a triangular depressed open turf area that doubles as a component of the water treatment measures. There are four such treatment areas on site (driven by the Hydro-modification Management Program) within the wide angles created by the edges of the driveways and parking bays.

The applicant has proposed a total of 31 additional trees onsite. Twin Chinese Pistache trees flank the primary building entry, while a series of London Plane trees surround the parking lot. The applicant proposes to plant Chinese Elms in the rear of the building nearest to the triangular eating area. There are also 8” to 12” Chinese Elms on the street frontage that the applicant proposes to retain and supplement with an additional specimen where the existing unfinished driveway apron that was to serve Union Sanitary District’s (USD) easement is to be removed. The street tree and all six primary trees along the primary driveway would be 24” box, while the balance of trees onsite would be 15-gallon-sized.

A planter approximately 6 feet wide including fragrant Germander and Rosemary adjoins the building’s perimeter sidewalk. Rosemary is also the primary plant along the street perimeter. Due to the alignment of a sewer easement that prohibits trees along the southeast property line, the applicant has proposed 5-gallon Pineapple Guava to provide a suitable border along an existing retaining wall, which would be repaired and repainted within the scope of this project. The balance of the landscape plan calls for Grecian Laurels and Chanticleer Pear trees, with one-to-five gallon shrubs set in groundcover underneath the canopy, as is typical for this type of development. With conditions of approval, including two additional parking lot fingers near the USD easement and larger trees across the front driveway, the proposal will comply with the City’s landscape requirements.

Circulation:

The proposed development is located on Farwell Drive, which is a collector street with existing street improvements along the project’s frontage. The existing driveway for the commercial center from Farwell Drive will serve as an access to the project. The developer is proposing to build a centrally-located medical office building with parking loaded from a wrap-around drive aisle, which loops back to the existing commercial driveway. The developer is required to modify the street improvements by removing an existing unfinished USD driveway apron and replacing it with curb, gutter, sidewalk and a planter strip in accordance with the Street Right-of-way and Improvement Ordinance.

Grading & Drainage:

The parcel is generally flat with a mild slope from the southwest corner to the northeast corner. The surface drains onto the abutting commercial paved drive aisle. There is an existing underground storm

drain that traverses the parcel from the northeast corner to the southwest corner. This storm drain connects to the on-site private main within the commercial shopping center.

Grading for the project consists of creating wrap-around central drive aisle around a central level pad for the proposed medical office building. The parking spaces are served from this central 26 foot wide drive aisle. The parking lot is sloped away from the building to the outbound curb and gutter along the perimeter of the parcel. The applicant's engineer estimates total project grading to be balanced with 615 cubic yards each of cut and fill. Runoff from pavement areas would be treated in landscape-based treatment measures before connecting to existing on-site storm drainage facilities. The on-site storm drainage system and connection to the shopping center drainage system will be included with the construction plans for the project. The storm drain system is subject to approval of the City Engineer and the Alameda County Flood Control and Water Conservation District.

Urban Runoff Clean Water Program:

The Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit requires all new development to incorporate measures to prevent pollutants from being conveyed in stormwater runoff and into the public storm drain system. This project is required to comply with the NPDES permit by incorporating treatment measures into the project design.

The project intends to meet the quantitative stormwater treatment requirements by installing four (4) in-ground infiltration planters (4% of impervious area allocation) to treat 100% of the total impervious area. In order to conform to the quantitative performance criteria of the Countywide NPDES permit, the project may be required to incorporate additional treatment control BMPs, to treat stormwater runoff. The stormwater treatment design shall be integrated into the storm drain design for the project and shall be subject to review and approval of the City Engineer prior to building permit issuance.

The project site is also required to implement flow-duration controls, which limit the rate that stormwater is discharged from the site. Flow duration controls are required because the project is located within the Hydro-modification (HM) susceptibility area and the project creates more than an acre of impervious area. The flow-duration controls will cause stormwater to be retained on site and slowly discharged into the public storm drain system, thereby preventing any increased creek erosion downstream of the project site. A stormwater treatment plan that details proposed flow duration controls/HM measures and supporting numeric sizing calculations must be provided to the City for approval prior to issuance of a building permit.

As required by the Alameda Countywide NPDES Municipal Stormwater Permit, the property owner shall enter into a maintenance agreement for the long-term operation and maintenance of stormwater treatment measures. The agreement would require the ongoing maintenance of all the designated treatment/HM facilities, including periodic replacement of media filter cartridges in the stormwater treatment vaults if applicable. The property owner shall also plan for sidewalk and pavement sweeping to help prevent debris and other pollutants from entering storm drains.

Geologic Hazards:

The project site is within a Liquefaction Zone on the official State Geologist's Seismic Hazard Zone maps. In accordance with State law, a project geotechnical and seismic hazard report is required and is subject to City review and approval prior to building permit issuance.

Applicable Fees:

This project is subject to Citywide Development Impact Fees. These fees currently include fees for fire protection, capital facilities and traffic impacts. The developer is not entitled to a development impact fee credit based on the fact that there is no record of permanent buildings having existed on this site. All applicable fees shall be calculated and paid at the office rate in effect at building permit issuance.

Environmental Review:

This project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15332, Infill Development. Additionally, the applicant submitted a Phase I preliminary environmental site assessment, which identified no environmental concerns. The site has been used as a Christmas tree lot accessed via the adjacent driveway on Farwell Drive, and has not been developed since at least 1939, the earliest availability date of the area's aerial photos.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. Notices to 100 owners and occupants of property within P-67-2, PUD-72-5, and otherwise within 300 feet of the site were mailed, and a Public Hearing Notice was published by *The Tri-City Voice* on February 25, 2009.

The Planning Commission took action on March 12, 2009 to continue the item to April 9, 2009 to allow the applicant additional time to work with the neighboring property owner. During the intervening month, the City has met with both parties, and the parties have met with one another to discuss such issues including parking calculations and impacts, common area maintenance, synergy and conflict of uses, signage, and other miscellaneous negotiations. The expiration date of the existing reciprocal easement agreement has required ongoing discussion among the parties in order to consider other concerns and build appropriate conditions into the project in order to ensure that this use complies with the City of Fremont's parking standards.

ENCLOSURES:***Exhibits:***

- Exhibit "A" Site Plan, Floor Plans, Conceptual Roof and Roof Equipment Plan, Architectural Elevations, Landscape Plans, and Conceptual Grading and Drainage Plans
- Exhibit "B" Findings and Conditions of Approval

Informational Enclosures:

1. Applicant's Statement of Justification for Floor Area Ratio Increase
2. 1979 Reciprocal Easement and Development Agreement

Supplemental Hearing Materials:

1. Color and Material Board

RECOMMENDATION:

1. Hold public hearing.
2. Find that the project is categorically exempt from the California Environmental Quality Act (CEQA) under 15332 of the CEQA Guidelines, infill exemption.
3. Find that construction of a 32,600 square-foot medical office building and associated site development as shown on Exhibit "A" for PLN2009-00123 is in conformance with relevant provisions contained in the General Plan. These provisions include the designations, goals, and policies set forth in the General Plan's Land Use Chapter as enumerated in the staff report.
4. Rescind Planned Unit Development PUD-72-5.
5. Approve Planned District Minor Amendment, Finding for Floor Area Ratio Increase, and Site Plan and Architecture PLN2009-00123, as shown on Exhibit "A", subject to findings and conditions in Exhibit "B".

Existing Zoning

Shaded Area represents the Project Site



Existing General Plan



EXHIBIT "B"
Findings and Conditions of Approval
For PLN2009-00123, Farwell Medical Office Building PD Minor, PUD Rescission, & FAR Finding
APN 531-0412-011-00

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Planning Commission dated April 9, 2009, incorporated hereby.

Floor Area Ratio Increase Findings:

- a. An increase in the FAR will not be detrimental to area streets, sewer lines and/or other public services or to lighting, air quality or privacy of any other properties in the vicinity of the structure because the new building will have a minimal effect on area streets, relevant utilities have indicated that they can serve the proposed project, and the proposed building, which is within the height limit, is located on a part of the lot that is optimal with respect to potential shading or privacy impacts for single-family houses to the southeast across the drainage channel.
- b. There will be a provision in place in the form of a condition of approval guaranteeing the increased FAR will not be used to create a more intensive use than the use specified by the approved finding.

Planned Unit Development Findings:

- c. That Planned Unit Development PUD-72-5 should be rescinded because existing entitlements and agreements within the shopping center, subsequent improvements existing and proposed on the site, and changes in codes and development standards over 36 years have made the development of apartments under the original entitlement infeasible as originally intended.

Planned District Amendment Findings:

- d. That the P district amendment conforms to the standards and requirements for P districts in section 8-21811 because medical office uses are permitted and construction of a building on this vacant lot was intended under the original approval of P-67-2;
- e. That the P district amendment conforms to findings required within Section 8-21813 because;
 - 1. The proposed medical office building and associated site improvements can be substantially completed within four years from this entitlement;
 - 2. With the existing agreement in place, the proposed medical office building, and the Mowry East Shopping Center as a whole, can exist as independent units capable of creating an environment of sustained desirability and stability;
 - 3. Farwell Drive, Mowry Avenue, Blacow Road, and existing and proposed internal driveways are suitable and adequate to carry anticipated traffic, and the FAR increase will not generate traffic in such amounts as to overload the street network;
 - 4. By virtue of the facts that the market has previously driven modification of Planned District P-67-2 to permit medical offices, the underlying General Plan and Zoning permit the use, and

the applicant is actively seeking establishment of a medical office facility, this type of facility can be justified economically at this location;

5. An exception from standard FAR requirements is warranted by the design and amenities incorporated into the proposal in accordance with adopted Planning Commission and City Council policies, because the building location is optimal for separation from residential and avoidance of shading or privacy impacts, because of the proposed conforming 37' maximum height where 40' is allowed, because of the buffering perimeter flood control and Hetch-Hetchy water parcels; because usable interior square footage is approximately 29,000 square feet; and due to oversized equipment storage areas, access corridors and gurney-sized elevators required by Institutional ("I") building code occupancy requirements;
 6. The surrounding area can be planned and zoned in coordination and substantial compatibility with the proposed development due to the fact that the proposed use is in conformance with existing regulations;
 7. Medical office uses in the Community Commercial area are in conformance with the general plan of the City of Fremont; and
 8. Proposed connections to existing utilities will be adequate for an office building of this size.
- f. That the P district amendment is in keeping with the original intent of the Planned District approval because medical office uses are permitted, and the use is compatible with existing development types and uses in the vicinity.

CONDITIONS OF APPROVAL:

General Conditions

1. Except as modified by the conditions herein, the project shall substantially conform to Exhibit "A" (Site Plan, Floor Plans, Architectural Elevations, and Landscape Plans), including a 32,600 square-foot two-story medical office building in the Mowry East Shopping Center
2. Construction-level detailed plans for the original construction or any future modifications shall be submitted to the City for review and approval to ensure conformance with conditions herein, as well as with relevant provisions of the Fremont Municipal Code, State, and federal law. As reviewed through building permit issuance and at any time after construction of the building, the increased FAR shall not be used to create a more intensive use than the medical office uses allowed within Planned District P-67-2. Accordingly, uses within the proposed building may not require a higher parking ratio than the approved 1/250 ratio.
3. Minor modifications to the approved building design and siting, elevations, and colors may be made, subject to review and approval of the Planning Director or the Director's designee, if such modifications are in keeping with the architectural statement of the original approval. However, the Planning Director shall retain the authority to determine the level of review required (i.e., depending upon the scope of the modification, the project may be referred to the Planning Commission for review and approval.

4. This project is subject to Citywide Development Impact Fees. These fees currently include fees for fire protection, capital facilities and traffic impacts. All applicable fees shall be calculated and paid at the office rate at the time of building permit issuance.

Legal Requirements/Agreements/Deed Restrictions

5. Prior to building permit issuance, the property owner(s) of the site, after review and approval by the City Attorney or his designee in accordance with FMC 8-22006, shall execute and record a document upon the subject property restricting the owner from taking any action as a party to that agreement that would eliminate the right to park in the nonexclusive off-site spaces required for the project. The existing parking agreement expires in approximately 2034. At least 90 days prior to that date, the applicant shall submit plans to the City for review and approval, to the extent that the following comply with then-applicable codes and regulations, to:
 - (a) Extend the agreement indefinitely.
 - (b) Acquire sufficient rights to park off-site.
 - (c) Build a parking garage on the subject parcel.
 - (d) A comparable alternative agreed upon with the City of Fremont
6. The developer/property owner of the project site shall defend, indemnify, and hold harmless the City or any of its boards, commissions, agents, officers, and employees from any claim, action, or proceeding against the City, its boards, commissions, agents, officers, or employees to attack, set aside, void, or annul the approval of the project when such claim or action is brought within the time period provided for in applicable state and/or local statutes. The City shall promptly notify the provider(s) of any such claim, action, or proceeding. The City shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith.

Special Project Conditions

7. General business hours will be limited to Monday through Saturday between 7 a.m. and 5 p.m. Minor modifications to the hours of operation may be permitted, subject to review and approval by the Planning Director or the Director's designee.
8. Employees shall be required to sign agreements to park in the southern loop driveway.
9. Prior to building permit issuance, the applicant shall provide additional information about the applicant's proposed commute alternative program to the Planning Division for comment. The program details should include carpool organization, bicycle encouragement, employee showers, and the proposed free employee shuttle service to and from the BART station.

Prior to Issuance of Building Permits (Plan Details and/or Modifications Required)

Site and Architectural Design

10. Protection for accessible entrance from weather by means of canopy or roof overhangs, extending to passenger loading zone will be required (CBC 1109B.2). The roof overhang over

the loading zone shall be at least 5-ft. wide and 20-ft. long adjacent and parallel to the vehicle pull-up space. Curb ramps will be required with minimum vertical clearance of 114 inches.

11. Signage for the building will be reviewed in accordance with Article 21 of the Fremont Municipal Code. The proposed signage location on the tower element is appropriate for general center identification, while individual tenants of a building of this type are not entitled to exterior signage, but typically are referenced from a lobby directory. No window signage will be permitted on the building's exterior. Muted door lettering for pedestrian wayfinding to first floor units' exterior doors may be considered. The applicant may apply for a Planned Signing Program in order to incorporate monument signage for this and other locations within the shopping center.
12. The applicant shall submit a request for new addresses for the parcel and any tenant spaces at the time of building permit review. Only those tenant spaces being created at the time of building permit issuance will be assigned addresses. Address assignment will be to Farwell Drive.
13. Roof top addressing shall be applied in a contrasting color, with a minimum size of 1' by 4' in order to enable pinpoint response from emergency air support in a critical incident and afford quick mobilization of ground units.
14. A trash enclosure is required for all commercial properties. The single 14' x 9' bay provided is sufficient. The enclosure must be securable to keep unwanted personnel from accessing or inhabiting the structure. It must be equipped with a gate that has the ability to be locked. If a roof is subsequently installed, the distance between the top edge of the wall and the roof is to be enclosed with acceptable fencing; preferably a vertical wrought iron style. A maximum opening or gap distance of 4 inches for any enclosure opening is not to be exceeded.

Planting & Irrigation, Hardscape and Lighting

15. All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect.
16. The existing perimeter wall shall be repaired and painted.
17. During building permit review, the applicant shall work with the City to provide two additional parking lot fingers for tree planting on the southwest side of the building near the USD easement to satisfy the requirement of one tree per three parking spaces and enlarge the planter strip at the northern front corner of the building (northwest elevation) to provide a cushion of adequate space for a tree in the existing planter with the backflow preventers. Maintain minimum standard and accessible parking in consultation with the City.
18. Across the existing driveway from Farwell from the entry, the applicant shall work with the City to provide larger canopy trees, expanding the existing planter strips at the end of the parking bays as necessary and generally complying with the minimum of one tree per ten spaces in this area. Minor modifications to this condition shall be subject to review and approval by the City.
19. All planting areas containing trees shall be free of all Utility Structures (including light standards) and other built features.

20. All alcoves and covered areas shall be designed to deter unauthorized loitering. Benches in the area shall be designed to prevent sleeping (e.g. middle arm rest).
21. Landscaping shall be appropriately sized and situated in locations to maximize observation while providing the desired degree of aesthetics.
22. The decorative paving specified in note 10 on Sheet A1.1 in the existing drive aisle shall be pavers, stamped concrete, or alternative treatment subject to reviewed and approval during building permit review.
23. During building permit review, coordination of light pole locations with parking lot stripes will be reviewed so that they are less likely to be hit by oversized vehicles.
24. During building permit review, the applicant shall submit a photometric plan, subject to review and approval by the Planning Director. The photometric plan shall identify the average illumination and the maximum light intensity throughout the site. In accordance with the Fremont Municipal Code, lighting shall be designed to avoid substantial light or glare from having an impact on the surrounding developments. All lighting fixtures shall be tamper and vandal resistant designs of high quality, with concealed lighting elements. Lights shall have sufficient power and spacing to provide a minimum maintained foot-candle level of 0.12 and a maximum of 5 in limited areas. In addition, adequate lighting of parking lots, driveways, passageways, recesses and grounds contiguous to building shall be provided with enough lighting of sufficient wattage to provide adequate illumination to make clearly visible the presence of any person on or about the premises during the hours of darkness and provide a safe environment. It is recommended that exterior lighting be either metal halide or high pressure sodium, with pole height limited to about 20 feet. The seating area on the southeast side of the building needs special lighting attention to deter loiterers and trespassers.

Public Safety Requirements

25. The applicant shall submit a detailed geotechnical report. The report shall include recommendations regarding pavement sections. The project plans shall be designed in accordance with the required geotechnical report. Grading shall be supervised by an engineer registered in the State of California to do such work.
26. The applicant shall submit a seismic hazard report (may be included as part of the required geotechnical report), which shall conform to the Seismic Hazard Mapping Act, because the site is located within an area of potential liquefaction. The report shall be peer reviewed by a City selected consultant. The applicant shall pay all associated peer review fees.
27. In order to maintain minimum drive aisle width for emergency vehicle access all drive aisle curbing which outlines the fire lanes, shall be painted red with white lettering reading "No Stopping Fire Lane." Text shall be at least four inches tall and shall be placed every 30 feet or portion thereof, on top of designated curbing or striping. No Stopping Fire Lane signs shall be posted at 100' intervals.
28. The generator shall meet applicable setback requirements to the building, property lines etc.

29. The applicant shall install an N.F.P.A. 13 fire sprinkler system complying with local amendments. Fire Department Connections for all sprinkler system must be no more than 100' from a fire hydrant. All inlets shall have Knox brand type caps with a metal sign/address placard at the connection.
30. A separate permit is required for the underground fire service, fire sprinkler, standpipe system, fire alarm systems, assembly areas, type 1 hoods, clean agents, LP gas, and medical gas.
31. The applicant shall have a key box (Knox brand) located outside of buildings and provide keys to the Fire Department so they may gain access.
32. Building address is to be plainly legible and visible from the public street. These numbers shall contrast with their background.
33. No trespassing/loitering signs should be posted at entrances of parking lots and other pedestrian access points with letter of enforcement on file with the police department.
34. All entrances to parking areas shall be posted with appropriate signs per 22658(a) VC to assist in the removal of vehicles at the property owners/managers/HOA request.

Grading Requirements

35. The applicant shall provide an erosion control plan, as part of the project plans, subject to review and approval by the City Engineer.
36. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
37. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
38. Prior to issuance of a permit for land disturbance greater than one acre, the developer shall file a Notice of Intent with the State of California Water Resources Control Board and receive the State assigned WDID number. The developer shall provide a copy of the Stormwater Pollution Prevention Plan (SWPPP) for City review and maintain a copy on the job site.

Streets, Right-of-Way and Utilities or Public Improvements

39. The applicant shall apply for and obtain an encroachment permit for all improvements within the public right-of-way and within public service easement (PSE) or public utility easements (PUE). The encroachment permit shall be obtained prior to or concurrently with the building permit.
40. The existing driveway along the Farwell Drive frontage that serves as an access to the sewer easement shall be removed and replaced with curb, gutter and sidewalk per City of Fremont standards and specifications.

41. Utility easements for sewer, water, and other public utilities, shall be established on-site as required by the permitting utility agencies or companies. Any required utility easements shall be granted prior to issuance of the building permit.
42. All new utility service connections, including electrical and communications, shall be installed in underground vaults within an appropriate utility easement or public service easement.
43. The transformer shown in the eastern corner of the building shall be placed adjacent to the generator enclosure and screened on the southeast side with a wall high enough to screen the transformer from view and of a material and color similar to the generator enclosure and the rest of the building. A gate that maintains clearances required by utility standards for screening of pad-mounted transformers shall be provided on the northeast side of the transformer. Minor modifications to landscaping, including eliminating two coast rosemary plants in that area and potentially modifying the adjacent sidewalk, shall be subject to review and approval by the City with an eye toward maintaining aesthetics for a greater portion of the site.
44. All utility and fire appurtenances, meters and risers shall be concealed or screened from view by materials of a design and composition compatible with the architectural treatment of the project. Unanticipated design modifications that may be required by the relevant utility in the field shall be subject to review and approval by the City.

Stormwater Facility Design

45. The minimum drainage slope in earthen swales shall be 1.5%. The minimum drainage slope in vegetated swales shall be 1.5%, when constructed with a subdrain system. Minimum 2% drainage slope shall be used if no subdrain is installed. Minimum requirements are subject to revision by the City Engineer upon receipt and review of soil drainage data from the project geotechnical engineer.
46. The project storm drain system shall conform to City standards and shall be subject to review and approval of the City Engineer and the Alameda County Flood Control and Water Conservation District. Drainage calculations shall be submitted with the grading and drainage plans for the project.
47. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
48. The provided Stormwater Management Plan is conceptual only. Final approval is subject to the developer providing the necessary plans, details, and calculations that demonstrate the plan complies with the Alameda Countywide NPDES Municipal Stormwater Permit, subject to City review and approval prior to issuance of building permits.
49. Stormwater runoff from all impervious surface areas (100%) shall be treated prior to entering the City storm drain system. Impervious surfaces include, but are not limited to: parking lot, the building roof, and paved walkways. Runoff from at least half of all impervious surface areas (50%) shall be treated by landscaped-based treatment measures.

50. This project shall be subject to flow-duration controls since it creates more than one acre of impervious area and lies within a Hydro-modification (HM) susceptible area. A stormwater treatment plan that details proposed treatment/HM measures and numeric sizing calculations must be provided. This may also involve underground detention systems to meter the flows from 10% of 2 year storm events up to 10 year storm events.
51. In accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831, the property owners shall enter into a maintenance agreement for the long-term operation and maintenance of stormwater treatment measures. The agreement shall run with the land and be recorded on the property prior to building permit issuance.
52. The developer is responsible for ensuring that all contractors and subcontractors are aware of stormwater quality measures contained in the Stormwater Pollution Prevention Plan (SWPPP). The developer is responsible for implementation of such measures. Failure to comply with approved BMPs will result in the issuance of correction notices, citations, or stop orders.
53. All public and private storm drain inlets are to be stenciled "No Dumping-Drains to Bay" using thermoplastic stencils purchased from the City of Fremont Environmental Services Division. Alternative inlet stencils or marking may be permitted, subject to approval by the Environmental Services Division.
54. All on-site storm drains must be cleaned at least once a year immediately prior to the rainy season. Additional cleaning may be required by the City of Fremont.

During Construction Conditions (Conditions that must be satisfied during construction.)

55. The applicant must submit a City of Fremont Waste Handling Plan prior to beginning any demolition or construction. The Waste Handling Plan must be approved by Environmental Services before permits are issued.
56. Within thirty days of completion of the work, the applicant must file a Waste Disposal & Diversion Report documenting actual diversion and disposal of construction and demolition debris, along with receipts or weight tags.
57. Construction hours will be limited in accordance with Section 8-2205 of the Fremont Municipal Code, and notes to this effect shall be placed on the cover sheet of the construction plans and on an all-weather notice board (format and content specified by the City) conspicuously placed adjacent to the most visible right of way for the duration of the construction activity as follows:
 - 1) Monday-Friday, 7 a.m. to 7 p.m.
 - 2) Saturday and Holiday, 9 a.m. to 6 p.m.
 - 3) Sunday, no construction activity allowed

END OF CONDITIONS



PLANNING COMMISSION STAFF REPORT APRIL 9, 2009

Project:	LOUIE SLIDE REPAIR- (PLN2006-00239)
Proposal:	To consider a Preliminary Grading Plan for a landslide repair in the rear yard of a single-family home.
Recommendation:	Approve based on findings and subject to conditions
Location:	46995 Ocotillo Court in the Warm Springs planning area. APN 519-1662-003-02 (See aerial photo next page)
Area:	24,000 cubic yard slide repair in the rear yard of a 3.34-acre lot
People:	Fay Louie, Owner and applicant Robert Wang, RW Engineering, Civil Engineering Wayne Ting, Ting & Associates, Geotechnical Consultant Joel Pullen, Staff Planner (510) 494-4436; jpullen@fremont.gov
Environmental Review:	A Mitigated Negative Declaration has been prepared and circulated for this project in accordance with the requirements of the California Environmental Quality Act.
General Plan:	Residential, 3-5 du/ac (house) Hill Face Open Space (rear slope)
Zoning:	Single-family residential, Hillside Combining District [R-1-10(H-I)] Open Space District (O-S)

EXECUTIVE SUMMARY:

The applicant proposes a Preliminary Grading Plan to repair several landslides in the rear yard of a 3.34-acre single-family residential property by returning the slope to a safe angle of repose with the addition of v-ditches and other measures to achieve sustained drainage, erosion control, and aesthetic benefits. The method of work includes shoring up the slope by moving 24,000 cubic yards of slough material from the lower portions of the slope and rebuilding the re-engineered slope with 27,000 cubic yards of slough material and imported granular fill. Staff recommends Planning Commission approve the project subject to findings and conditions of approval.



Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

- North: Single-family residential properties on Ocotillo Court
- South: Drainage channel and vacant land abutting I-680
- East: Single-family residential properties on Ocotillo Court
- West: I-680

BACKGROUND AND PREVIOUS ACTIONS:

The project area is in the sloping rear yard of a single-family custom house built as part of the 1970s 'Glenmoor Hills' subdivision. The lot is relatively flat from the bulb of Ocotillo Court back to the building site, and then drops steeply away at a 40-50% slope toward a drainage channel along the rear property line, which borders I-680 to the southwest and open space to the southeast. A tree line (palms) exists approximately 50 feet behind the house; from this point, three separate landslides totaling approximately 24,000 cubic yards occurred within the past 10-15 years. The slides extend approximately 100 feet down the hillside toward a natural drainage swale that carries runoff to the west under I-680. Over the past several years, the applicant has explored a variety of methods of repairing the slope in consultation with a couple of engineering firms, and proposed the current method of slope repair, which has been peer-reviewed by the City's geotechnical consultant.

PROJECT DESCRIPTION:

The applicant proposes to shore up the slope by moving 24,000 cubic yards of slough material back up the hill and importing an additional 3,000 cubic yards of granular fill to be used for buttresses, providing a geogrid in accordance with the City's geotechnical peer reviewer to further strengthen the manufactured slope and adding v-ditches to route drainage appropriately and help prevent future slides.

PROJECT ANALYSIS:

General Plan Conformance:

The existing General Plan land use designations for the project site are Residential, 3-5 dwelling units per acre for the house and vicinity, and Hill Face Open Space along the slide area. The proposed project is consistent with the existing General Plan land use designation for the project site because repairing the existing slide, improves safety for the established residential area up the hill and returns the grade to a more aesthetically acceptable angle of repose that improves safety for the established adjacent residential properties. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

FUNDAMENTAL GOAL 2: AN HARMONIOUS BLEND OF THE NATURAL AND BUILT ENVIRONMENTS

Analysis: The landslide abutting residential development is proposed for repair in order to improve safety for the established residential area and to bring the hillside closer to its previous condition.

GOAL OS 2: RECOGNITION, PROTECTION, AND ENHANCEMENT OF SIGNIFICANT NATURAL AREAS AND WILDLIFE HABITATS IN THE CITY, INCLUDING BAY TIDAL, SEASONAL, AND FRESHWATER WETLANDS, AND OPEN MEADOWS AND FIELDS

Analysis: A Biological Resource Assessment was completed in preparation of the environmental document in order to examine and mitigate any potential impacts to wildlife. Mitigations have

been proposed in order to reduce potential biological impacts to a less than significant level.

POLICY LU 6.16:

CONSISTENT WITH THE HILL AREA INITIATIVE OF 2002, ALL DEVELOPMENT SHALL BE DESIGNED TO MINIMIZE DISTURBANCES OF THE NATURAL TERRAIN AND VEGETATION AND TO MINIMIZE THE VISUAL IMPACT.

Analysis: Three landslides proceed down the hillside from a tree line in the backyard of a single-family custom house within the subdivision approved and built within the City prior to the City's hill ordinances. The landslides have been covered with tarps and stones for some time to avoid additional erosion and runoff leading to exposed soils and resultant drainage channel turbidity with each event. Persistent erosion control measures themselves are aesthetically negative features on the landscape. Additionally, presence of the landslide in proximity to the existing residential development represents a public safety hazard that the homeowner has voluntarily submitted a proposal to repair in order to return the terrain and vegetation to its natural state, with v-ditches like those next door the only noticeable features to remain visible on the landscape.

Zoning Regulations:

As set forth in Section 8-4108(a)(1) of the Fremont Municipal Code (FMC), grading in excess of 1,000 cubic yards on a residential property of this kind is subject to a Preliminary Grading Plan reviewed by the Planning Commission.

The area under review for a Preliminary Grading Plan is primarily constrained land (greater than 30% slope) within the area of the site zoned open space. In accordance with FMC 8-21715.1(b) and 8-21821.1(b), the applicant has provided geotechnical analysis that has been reviewed by the City's peer reviewer, and the City finds that the constraint is capable of mitigation in order so that the proposed restoration grading can occur. Although grading to create new development is ordinarily limited to a 3:1 slope, the existing higher grades in the vicinity, as they are applicable to a slope repair, will be exceeded in accordance with FMC 8-21822.1(n) based upon the nature of the surrounding terrain. This correction of a constrained area shall not result in lands being redesignated as unconstrained land. Per Open Space and Hillside Combining Overlay District standards, the area shall be appropriately landscaped and designed with erosion control measures described in the grading section.

Design Analysis:

Site Planning:

No changes to the existing structures are proposed. The modifications proposed herein will not result in additional building capacity upon the lot due to an existing open space easement recorded with the subdivision over the extended rear yards along the southwest properties on Ocotillo Court.

Open Space/Landscaping:

The proposed scope of work includes maintenance of the existing open space area after grading with the addition of v-ditches for drainage. The applicant will hydroseed the site with native grasses as required by typical erosion control measures through review and approval of the final grading and erosion control plans required by conditions 6 and 7.

View Impacts:

The subject site is immediately visible from Interstate 680 to the southwest. The proposed action would restore the slope to a more aesthetically expected angle of repose with v-ditches similar to those on the adjacent property to the northwest.

Grading & Drainage:

The existing south and southwesterly facing slopes across the entire width of the subject property are comprised of landslides and decomposed bedrock vulnerable to landslides. Portions of this slope have been susceptible to landslides in the recent past. These slopes are very steep with average slopes ranging between 40% and 50%. The top of slope elevation is between 224 to 232 feet. The bottom of the slope is a natural drainage swale at elevations 157 to 176 feet.

Grading for the project consists of repairing the landslides by rebuilding the slopes with an engineered and benched slope held by a buttress at the base of the slope within the subject property. This slope will be constructed per the recommendations contained in the project geotechnical report. A series of sub-drains and concrete ditches will be constructed to collect subsurface and surface water from the slope and convey it into a closed pipe system. This storm drain eventually drains to the existing drainage swale.

Geologic Hazards:

The project site is within both the Earthquake Fault Trace Zone and the Earthquake Induced Landslide Zone on maps released by the State Geologist. Although the landslide repair project is not subject to special studies according to State Law, the project geotechnical report and grading plan were reviewed and approved by the City's geotechnical peer review consultant. The project improvements will conform to the recommendations of the project geotechnical report and the peer review.

Environmental Review:

An Initial Study and Draft Mitigated Negative Declaration have been prepared for this project. The environmental analysis identified concerns regarding potential impacts to biological resources, which were detailed in a biological resources analysis report completed for the project. The Draft Mitigated Negative Declaration includes mitigation measures recommended by the biological consultant, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

Mitigation measures

In order to mitigate potential impacts to biological resources, three mitigation measures were required, specifying the time period when grading is allowed, installation of a fence to separate the work from the drainage channel, and the need for pre-construction surveys. In addition, a Mitigation Monitoring Program is recommended for adoption in order to ensure implementation of mitigation measures.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 14 notices were mailed to owners and occupants of property within 300 feet of the site. A Public Hearing Notice was published by *The Tri-City Voice* on March 25, 2009 and notices to owners and occupants were mailed on March 27, 2009.

ENCLOSURES:

Exhibits:

- Exhibit "A" Draft Mitigated Negative Declaration and Mitigation Monitoring Plan
- Exhibit "B" Preliminary Grading, Drainage, and Slope Profile Plans
- Exhibit "C" Findings and Conditions of Approval

Informational Items:

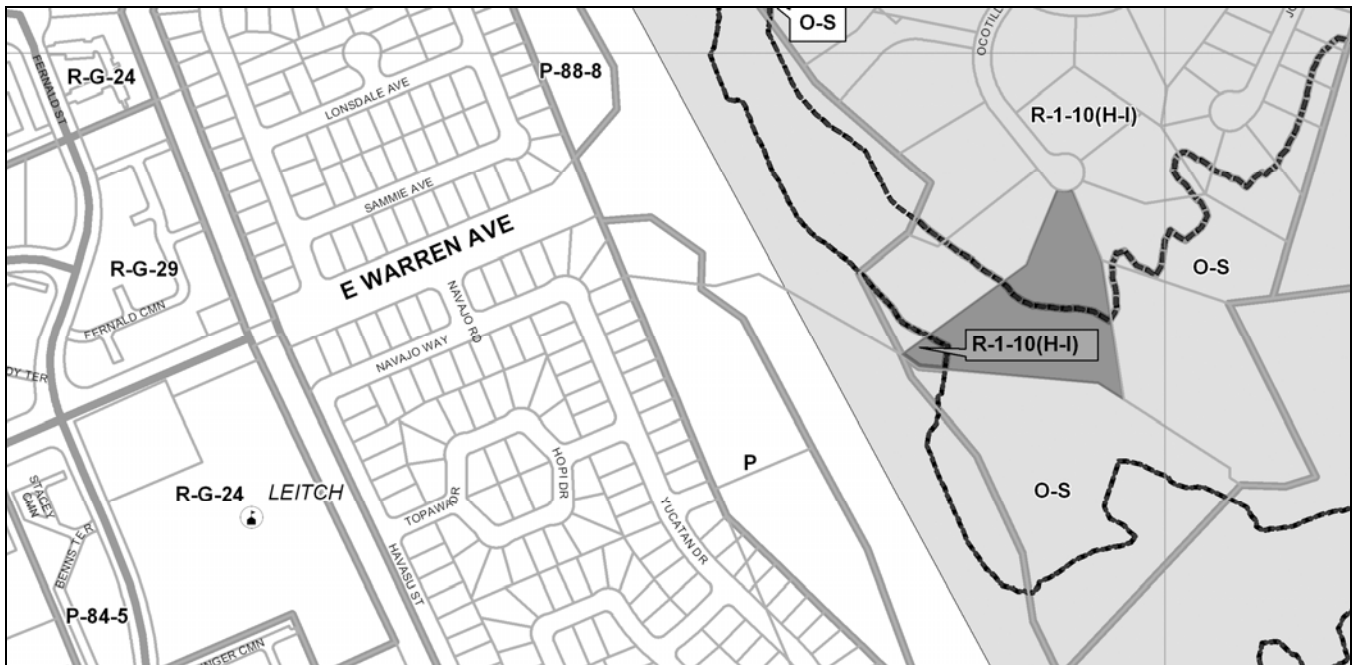
1. Initial Study

RECOMMENDATION:

1. Hold public hearing.
2. Adopt a Mitigated Negative Declaration and Mitigation Monitoring Plan PLN2006-00239 and find this action reflects the independent judgment of the City of Fremont.
3. Find Preliminary Grading Plan PLN2006-00239 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Land Use and Open Space Chapters as enumerated within the staff report.
4. Approve Preliminary Grading Plan PLN2006-00239, as shown on Exhibit "B", subject to findings and conditions in Exhibit "C".

Existing Zoning

Shaded Area represents the Project Site



Existing General Plan

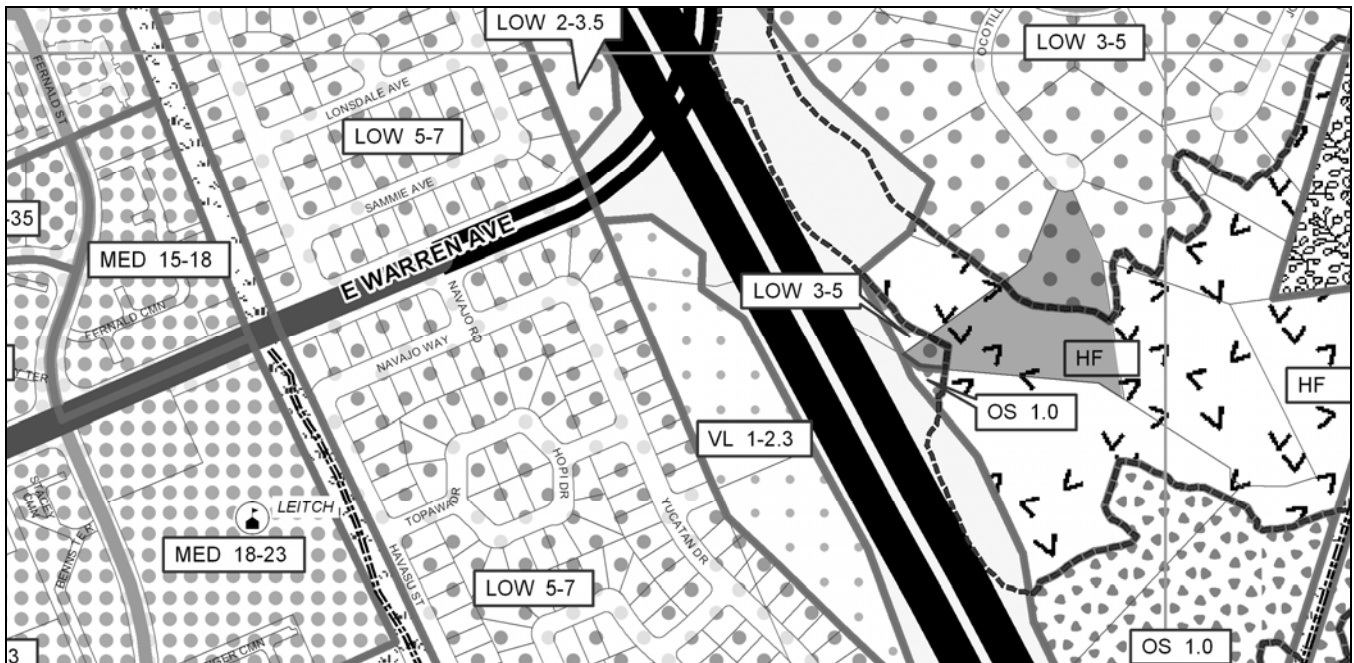


EXHIBIT "C"
Findings and Conditions of Approval
For PLN2006-00239, Louie Slide Repair Preliminary Grading Plan
46995 Ocotillo Court

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Planning Commission dated April 9, 2009, incorporated hereby.

- a. The proposed project described in the application will not have the appearance, due to the grading, excavation or fill, substantially and negatively different from the natural appearance because the appropriate amount of grading necessary to accomplish the objective of creating safe and aesthetically pleasing condition for an established residential area is being performed by repairing the slope.
- b. The proposed project described in the application will not result in geologic or topographic instability on or near the site because this action has received extensive geotechnical review for a scope of work specifically intended to reduce geologic and topographical instability on the subject slope.
- c. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way because no public improvements are in the vicinity and conditions of approval prevent interference with the drainage course.
- d. The proposed project described in the application will not unacceptably affect the health, safety or welfare of adjacent residents or landowners, nor the citizens of Fremont because the purpose of the project is to create a safer and more aesthetically expected condition on the site.

CONDITIONS OF APPROVAL:

General Conditions

1. The project shall conform to Exhibit "B" (Preliminary Grading Plan, Drainage Plan, and Slope Profiles) to accomplish a slope repair in accordance with all conditions of approval set forth herein.
2. Construction-level detailed plans for the original grading or any future modifications shall be submitted to the City for Development Organization review and approval to ensure conformance with conditions herein, as well as with relevant provisions of the Fremont Municipal Code, State, and federal law.

3. Prior to issuance of a permit for land disturbance greater than one acre, the developer shall file a Notice of Intent with the State of California Water Resources Control Board and receive the State assigned WDID number. The developer shall provide a copy of the Storm Water Pollution Prevention Plan (SWPPP) for City review and maintain a copy on the job site.
4. Mitigation Measures:
 - a. Mitigation Measure 1: To reduce the risk of impacts to biological resources to a less-than-significant level, the applicant shall be permitted to grade the site only between the Spring months of March 15th and May 1st, and between the fall months of September 1st to November 15th.
 - b. Mitigation Measure 2: A temporary silt fence, together with appropriate erosion control measures, shall be installed and maintained in place throughout the term of construction along the base of the slope at a point ten feet uphill from the top of bank identified on the plans. All construction appurtenances, including, but not limited to grading equipment and erosion control measures, shall be utilized and installed, respectively, uphill of the fence. No work shall be performed in these areas. Prior to construction, the applicant shall contact the City to allow an inspection to verify the correct installation of the fencing and erosion control features. Any minor plan revisions made during review of the construction permit shall be reviewed for adherence with this mitigation measure.
 - c. Mitigation Measure 3: Seventy-two hours prior to the commencement of construction activities, the applicant shall coordinate with the City to retain a qualified biological consultant to conduct a comprehensive pre-construction survey for special-status species and any follow-up studies or permitting that may be required in the event any species are found. In the event that special status species are identified within the construction area, no work may be initiated without City approval of a mitigation avoidance or replacement plan in consultation with the appropriate state or federal authority. If construction activities occur during more than one of the described time periods, an additional pre-construction survey shall be completed 72 hours prior to initiation of construction activities and is subject to the same standards as identified in the preceding paragraph.
5. Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the final grading plans.
6. Approval of this preliminary grading plan shall terminate 24 months from the date of approval by the Planning Commission.
7. During Development Organization review the applicant shall obtain a final grading permit. A professional engineer registered in the State of California must prepare the final grading plan.
8. The applicant shall provide an erosion control plan, as part of the project plans, subject to review and approval by the City Engineer.
9. A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.

10. The project plans shall be designed in accordance with the required geotechnical report and subsequent letter reports and recommendations in the peer review. Grading shall be supervised by an engineer registered in the State of California to do such work.
11. The Project Geotechnical Engineer shall be retained to inspect, test (as needed) and approve all aspects of geotechnical construction. The inspections should include, but not necessarily limited to: site preparation and grading, site surface and subsurface drainage improvements and verification that the final slopes and drainage improvements are satisfactory from a geotechnical perspective. The results of these inspections and as-built conditions of the project should be described by the geotechnical engineer in a letter and submitted to the City Engineer for review prior final (as-built) project approval.
12. The final grading plan shall include existing and proposed elevation contours based upon a City of Fremont benchmark.
13. The applicant may be allowed grading deviation up to a maximum of one foot (plus or minus) between the preliminary grading plan and the final grading plan. Deviation over one foot may be referred to the Planning Commission, subject to review and approval of the City Engineer.
14. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
15. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
16. The applicant shall submit a tree survey if any trees at the top of the slope become necessary for removal during grading activities. Appropriate mitigation for tree removal shall be determined if tree removal is necessary.
17. Grading and on-site hauling operational hours will be limited in accordance with Section 8-2205 of the Fremont Municipal Code, and notes to this effect shall be placed on the cover sheet of the construction plans and on an all-weather notice board (format and content specified by City) conspicuously placed adjacent to Ocotillo Court for the duration of the construction activity as follows:
 - a. Monday-Friday, 7 a.m. to 7 p.m.
 - b. Saturday & Holiday, 9 a.m. to 6 p.m.
 - c. Sunday, no construction activity allowed

END OF CONDITIONS



PLANNING COMMISSION STAFF REPORT

April 9, 2009

Project:	WASHINGTON DEVELOPMENT – 1845 WASHINGTON BOULEVARD (PLN2007-00117)
Proposal:	To consider a Planned Unit Development, Vesting Tentative Parcel Map (VTPM-9278), Preliminary Grading Plan, Subdivision Modification, and Private Street for three single-family residences and lots on a 0.74 acre parcel located in the Mission San Jose Planning Area
Staff Recommendation:	Approve based on Findings and subject to Conditions
Location:	1845 Washington Boulevard in the Mission San Jose Planning Area. APN 513-502-6-8 (See map next page)
Area:	0.74 acres
People:	Libin and Jennifer Zhang, Applicants/Owners Izzat Nashashibi, Humann Company – Civil Engineers Terry Wong, Staff Planner (510) 494-4456 twong@fremont.gov
Environmental Review:	A Mitigated Negative Declaration has been prepared and circulated for this project in accordance with the California Environmental Quality Act.
General Plan:	Existing: Low Density Residential, 5-7 units/acre
Zoning:	Existing: Single-Family Residence R-1-X-6.5 (HOD)(H-I) Proposed: Single-Family Residence R-1-X-6.5 (HOD)(H-I), Planned Unit Development – PUD-2007-117

EXECUTIVE SUMMARY:

The Planning Commission is being asked to consider a Planned Unit Development (PUD), Vesting Tentative Parcel Map (VTPM 9278), Preliminary Grading Plan, Modification to Subdivision Regulations and Private Street to facilitate the development of three new single family homes and private street within a four-parcel subdivision of a 0.74 acre site. The existing single-family home on the site will be demolished, and replaced with new subdivision served by a private street to three new traditional single-family homes on separate parcels. The site's General Plan land use designation is Low Density Residential (5-7 units per acre). The proposed project is consistent with the General Plan and Zoning Ordinance applicable to the proposed PUD and accompanying entitlements for the creation of the new subdivision. Staff recommends that the Planning Commission approve the project based on the findings and subject to conditions of approval contained in Exhibit "C."

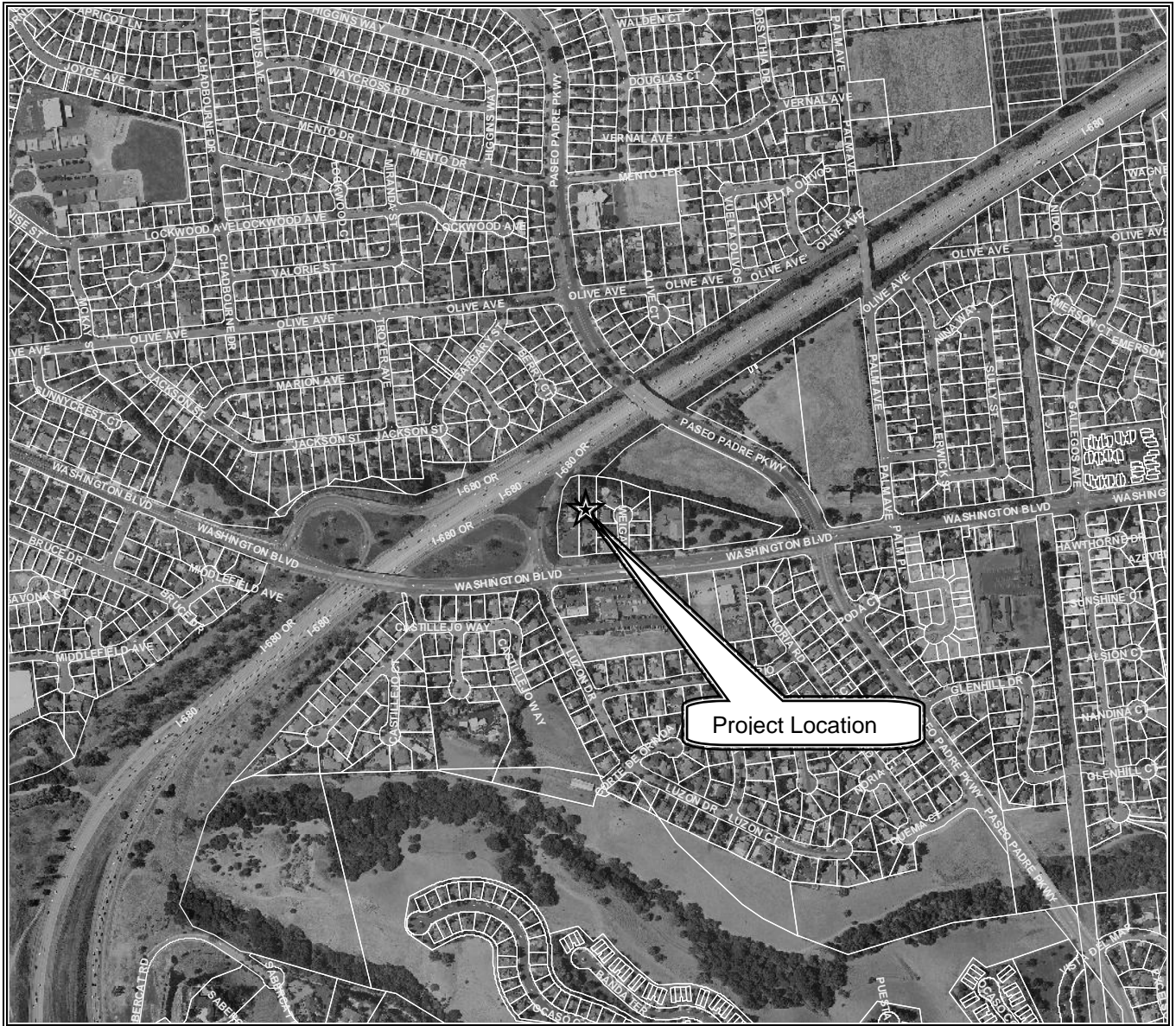


Figure 1: Aerial Map (2006) of Project Site and Surrounding Area.



[1 inch = 500 feet]

EXISTING LAND USE: Vacant

SURROUNDING LAND USES: North: Interstate 680
 South: Neighborhood Commercial Shopping Center
 East: Single-family residential
 West: Montessori School

BACKGROUND AND PREVIOUS ACTIONS:

There is no planning entitlement history associated with the project site. The site contains a 1,450 square foot one-story, single-family residence built in 1959, and landscaped with ornamental trees and shrubs. Section 8-219116 of the Fremont Municipal Code requires structures at least 50 years old must be evaluated for potential historical significance. The City's historic consultant reviewed the structure and determined that, although the house possessed some traditional architectural details found on traditional ranch-style homes, due to the structure's overall poor condition it was not found to be historically significant. The home is planned for removal to accommodate the proposed project.

The City's Historical Architecture Review Board reviewed the project at their March 4, 2009 meeting and recommended approval of the project.

PROJECT DESCRIPTION:

The applicant requests a Planned Unit Development, Vesting Tentative Parcel Map (VTPM-9278), Preliminary Grading Plan, Private Street and a Subdivision Modification for the development of three new single-family homes. The proposed project development is summarized below:

1. Residential Use: Three Mediterranean-themed residential single-family homes are proposed ranging in size from 3,482 to 4,335 square feet of living space.
2. Off-street Parking: All homes will be provided with a two-car garage and a driveway apron that is sized to accommodate an additional two vehicles. Three guest parking spaces are situated in the center of the development within the private street common area.
3. Circulation: A new private street (Mascot Terrace) provides direct access to each lot from Washington Boulevard with a hammer-head for vehicle turn-around.
4. Landscaping: Several existing trees will be preserved with the development of this project; however, some trees will be removed to accommodate the building locations. The applicant is required to mitigate the trees that are proposed for removal.
5. Open space: Each unit will be provided with a sufficient amount of private open space, including private backyards. These areas could be designed with patios, trellises or other similar structures.
6. Subdivision: Three parcels for residential use (Parcels 1, 2, and 3) and one common area parcel (Parcel A) for street use are proposed to be created by a parcel map. Parcel A shall be owned in common by the homeowners of Parcels 1, 2, and 3.

PROJECT ANALYSIS:

General Plan Conformance: The existing General Plan land use designation for the project site is Low Density Residential, 5 to 7 units per acre. The proposed project is consistent with the existing General Plan land use designation because it would create three single-family dwelling units within the underlying density range, (5 du/ac x .74 ac. = 3 units). The density will be below of the General Plan range of 5 to 7 dwelling units per acre, due to site constraints largely as a result of existing topographical conditions (steep grades) and a creek at the rear of the site. These constraints reduce the buildable site area by more than 4,000 square feet.

The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

- **Land Use Goal 1** – *New housing development while conserving the character of the City's existing single-family residential neighborhoods.*
- **Land Use Policy 1.1** – *Residential use is the primary use allowed in residentially designated areas. The type of residential use depends on the permitted density and other criteria to protect neighborhood character and the safety and welfare of residents.*

Analysis: The proposed project would create three new residential parcels similar in size to other parcels in the surrounding area, with an identical single-family land use designation. Construction of the new homes within the proposed subdivision would be reviewed to ensure compatibility of the existing character of the residential neighborhood. Further, the proposed architectural design of the homes is similar to that found in the area.

- **Housing Goal 2** – *High quality and well-designed new housing of all types throughout the City.*

Analysis: The proposed project envisions the development of three new two-story single-family residences that are well-designed with architecture and compatible with other residences found in the neighborhood. The facades are well-articulated with prominent front porches, first to second story vertical relief, theme-specific shapes (e.g., arched entries, columns) and high quality materials, colors, lighting fixtures, doors and windows, garage doors, and trim detail (e.g., wrought iron balconies, bay windows, stone veneer columns and wainscoting).

Zoning Analysis:

As set forth in Section 8-2601(A) of the Fremont Municipal Code (FMC), single-family residences are allowed in the R-1-X-6.5(HOD)(H-I) district. The R-1-X-6.5 district is similar to the R-1-6 zoning district; however the minimum lot size is 6,500 square feet rather than 6,000 square feet. Based on this similarity, the development standards applied are those of the R-1-6 Zoning District. The applicant requests a Planned Unit Development to allow minor deviations from the minimum lot area requirement, and a minor modification to subdivision regulations (FMC 8-1800) to allow a reduction of the minimum lot width requirement to 56 feet where 65 feet is otherwise required. All other zoning provisions and requirements are adhered to with the proposed design of the project.

The following table summarizes the proposed modification between what is required and what is proposed:

R-1-X-6.5	Required	Proposed	Modification
<i>Lot Area:</i>			
Parcel 1	6,500 square feet	6,173 square feet	Reduction of 327 square feet or 5%
Parcel 2	6,500 square feet	6,192 square feet	Reduction of 308 square feet or 4.7%
Parcel 3	6,500 square feet	11,037 square feet	None

<i>Lot Width:</i>			
Parcel 1	65 feet	56 feet	Reduction of 9 feet or 14%
Parcel 2	55 feet	56 feet	None
Parcel 3	55 feet	84 feet	None

Lot Sizes and Dimensions:

The City's Zoning Ordinance established standards for new subdivisions, which the applicant proposes to deviate from. The proposed PUD and Subdivision Modification allows exceptions to specific subdivision standards if a project's specific design attributes warrant the exceptions. The proposed lot width, lot size reductions and landscape planter width reduction would still result in the creation of new homes on lots of similar sizes in the neighborhood. The project conforms to all other site development standards (e.g., set backs, height and floor area to lot size ratio).

The Hillside Combining District (H-I) ensures for orderly development of the City's hillside areas. The proposed project conforms to the hillside lot area, width, and development standards, as established in FMC Article 18.2, Hillside Combining District. The site is situated near the end of the western boundary of the H-I overlay district where the slope is relatively gentle compared to elsewhere on hillsides higher in elevation.

Parking:

Each of the proposed single-family dwelling units will have an attached two-car garage and a driveway that can accommodate two vehicles. Since the project is accessed by a private street and on-street parking is not permitted on Washington Boulevard, the applicant has incorporated three centrally-located guest parking spaces located between Parcels 1 and 2. These guest spaces would be shared in common.

Open Space/Landscaping:

A total of twenty (20) trees, representing seven (7) species were evaluated in the arborist report prepared by Hortscience, Inc. in December 2006. All trees were planted as part of the previous residential landscape with the possible exception of the Black Walnut. The trees were rated from good to poor for their suitability for preservation. Two Canary Island Pine trees rated as good, six Monterey pine trees and eight (8) Blue Gum Eucalyptus were rated moderate to poor. The Sweet Gum, Black Walnut and Hollywood Juniper were rated as moderate and the Mulberry was rated as poor.

The proposed development allows for the preservation of five (5) Blue Gum Eucalyptus but does not propose to preserve or relocate the other fifteen (15) existing trees. It is not feasible to relocate the two Canary Island Pines that are rated as good so staff is recommending mitigating the loss of these trees with two 48" box trees. The loss of the other thirteen (13) trees shall be mitigated with 24" box trees as is standard.

View Impacts:

The project site is located adjacent to a cul-de-sac developed with single-family, one and two-story homes with mature landscaping and trees. There are views of the Fremont hillside above Mission San Jose from the project site. The proposed homes are generally of a similar size, height, and massing as existing homes in the vicinity. Construction of the new homes would not impact existing hillside views.

Circulation:

The three new residences will have access from a new private street to Washington Boulevard. The private street would provide for two way traffic onto the site, emergency vehicle access, on-site turnaround, and three guest parking stalls. Parking would not be allowed on the private street other than within the three designated guest parking stalls.

Washington Boulevard is a designated bikeway route, as such, on-street parking on Washington Boulevard is prohibited. Entry into the private street is enhanced by colored stamped concrete and within an area near the guest parking spaces. Due to the low number of residences in the project, and the overall narrowness of the subject site, the project does not include a sidewalk within the development. A new six-foot masonry wall will replace an existing six-foot fence that is located along the west property line.

Street Right-of-way Dedication and Improvements:

The project's frontage along Washington Boulevard is designated as an arterial roadway and consists of four lanes with a landscape median. Street right-of-way for Washington Boulevard was acquired by the City via grant deed in 1959. No additional right-of-way dedication or street widening is required. Street improvements in Washington Boulevard include, but are not limited to, construction of a new private street driveway and underground utilities.

Grading & Drainage:

The project is designated as being in a Hillside Combining District. In conformance with the requirements and intent of the Hillside Combining District the project has been designed to fit the contours of the land, minimize grading of the building pads and reduce the size and height of retaining walls. The grading and drainage design keeps all stormwater runoff within the boundary of the project and transmits it to the private street and eventually to the public system in Washington Boulevard, approximately 100 feet to the west of the project site.

Urban Runoff Clean Water Program:

The Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit requires all new development to incorporate measures to prevent pollutants from being conveyed in storm water runoff and into the public storm drain system. This project is required to comply with the NPDES permit by incorporating treatment measures into the project design.

The project will meet the quantitative storm water treatment requirements by constructing flow through planters and an underground mechanical system. The project will also utilize pervious pavers located in the guest parking area. In order to conform to the quantitative performance criteria of the Countywide NPDES permit, the project may be required to incorporate additional treatment control best management practices, to treat storm water runoff. The storm water treatment design shall be integrated into the storm drain design for the project and shall be subject to review and approval of the City Engineer prior to Final Map approval.

Applicable Fees:

This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, park facilities, park land in lieu, capital facilities and traffic impact. All applicable fees shall be calculated and paid at the fee rates in effect at the time of building permit issuance. Because one

single-family residence currently exists on the subject site, an impact fee credit will be given for one of the future new residences.

Environmental Determination:

An Initial Study, Mitigated Negative Declaration, and Mitigation Monitoring Plan have been prepared for this project. The environmental analysis identified concerns regarding potential impacts to air quality, biological resources, noise, geotechnical and hydrology. The Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study (Informational 1) for the project, which is included as an enclosure. The Draft Mitigated Negative Declaration was prepared and circulated for public review for 20 days from March 3, 2009 through March 24, 2009 in accordance with the requirements of the Californian Environmental Quality Act (CEQA) (Exhibit "A"). The applicant has agreed to implement mitigation measures that would reduce the impacts the project may have to a less-than-significant level. These mitigation measures have been included as conditions of approval for the project. As such, staff recommends the Commission adopt the Mitigated Negative Declaration and Mitigation Monitoring Plan as presented in Exhibit "A".

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 48 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on March 27, 2009. A Public Hearing Notice was published in *the Tri-City Voice* on March 25, 2009.

Neighborhood Meeting: On Wednesday February 18, 2009, the applicant held a neighborhood meeting to provide the public an opportunity to review and comment on the proposed project. One neighbor attended the meeting, and initially expressed concerns with regards to loss of sunlight in her backyard because of the proposed new homes. After reviewing the plans, she indicated she was in favor of the project as designed.

Exhibits: Exhibit "A" Mitigated Negative Declaration & Mitigation Monitoring Plan
Exhibit "B" Project Development Plans (PUD)/Vesting Tentative Parcel Map 9278, Preliminary Grading Plan, and Private Street
Exhibit "C" Findings and Conditions of Approval for PUD2007-117, Vesting Tentative Parcel Map 9278, Preliminary Grading Plan and Private Street

Informational: Informational 1 Initial Study – Environmental Document
Informational 2 Historical Architecture Review Board–Draft Minutes March 4, 2009

Supplemental Hearing Material: Color and Material Board

RECOMMENDATIONS:

1. Hold public hearing.
2. Approve the Mitigated Negative Declaration and Mitigation Monitoring Plan (Exhibit “A”) and find this action reflects the independent judgment of the City of Fremont.
3. Find that the proposed project is in conformance with the relevant provisions contained in the City’s existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan’s Land Use and Housing Chapters as enumerated within the staff report.
4. Find PUD, Vesting Tentative Parcel Map 9278, Preliminary Grading Plan and Private Street, all shown on Exhibit “B” to be in conformance with the relevant standards of the Fremont Municipal Code.
5. Approve Exhibit “B” (Project Development Plans [PUD]/Vesting Tentative Parcel Map 9278, Preliminary Grading Plan, and Private Street), based upon the findings contained in the report and subject to the conditions of approval set forth in Exhibit “C”.

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan
Shaded Area represents the Project Site

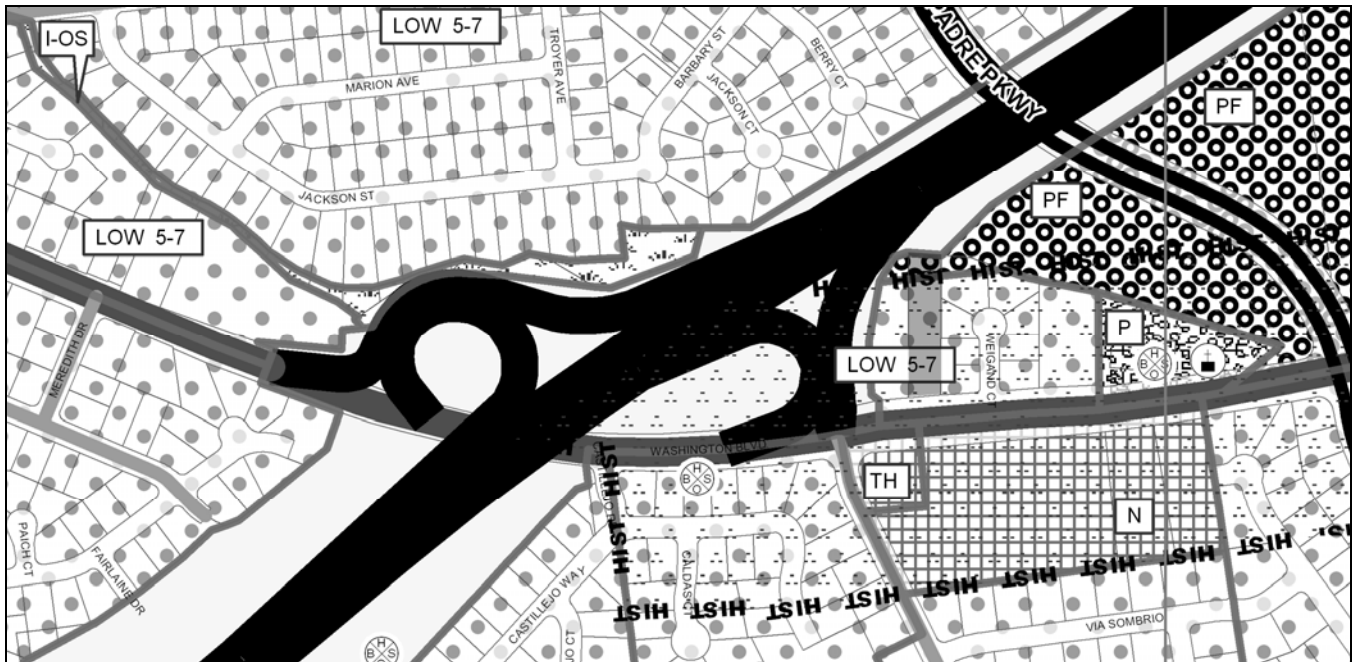


Exhibit "C"
Findings and Conditions of Approval – Washington Development PUD-2007-117
Vesting Tentative Parcel Map 9278, Preliminary Grading Plan, Private Street, and
Modification to Subdivision Regulations (PLN2007-00117)

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Planning Commission dated April 9, 2009, incorporated hereby:

Findings for Planned Unit Development PUD-2007-117:

- (a) That the applicant of the Planned Unit Development has demonstrated that the project can be substantially completed within 4 years from the date of approval as the applicant intends to commence construction upon approval of the project in a single phase.
- (b) That the proposed Planned Unit Development (PUD) conforms to General Plan's Land Use and Housing Chapters in that the applicant proposes a subdivision to create three new parcels for single-family residential use, consistent with City standards, goals and policies, as modified for this specific project.
- (c) That the adjacent streets are suitable and adequate to carry anticipated traffic, and the project will not generate traffic in such amounts as to overload the adjacent street network. The proposed project would not create any new public streets. The project fronts onto an existing arterial roadway (i.e., Washington Boulevard). A new private internal street will be created which will be connected to Washington Boulevard.
- (d) That the existing or proposed utility services are adequate for the uses and for the population densities proposed. None of the responsible utility companies have stated they will be unable to provide the required services to the site.

Findings for Vesting Tentative Parcel Map 9278 and Preliminary Grading Plan:

- (a) The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance, because the procedural requirements of the Map Act are being followed and the proposed parcels are consistent with the standards and policies adopted for a Planned Unit Development, as modified for this specific project.
- (b) The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan as a new residential subdivision is permitted in a residential area, consistent with the several goals and policies enumerated in the staff report.
- (c) The site is physically suitable for the type or proposed density of development in that the subdivision will create three new parcels with adequate land area to support single-family homes with sufficient setbacks and useable private yard space.

- (d) The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat in that the appropriate studies have been completed and the necessary Mitigation Measures are being implemented through the Conditions of Approval.
- (e) The design of the subdivision or the type or improvements will not likely to cause serious public health problems, because the review process of the subdivision has taken those concerns into consideration and has found the proposal in conformance with the City of Fremont's policies.
- (f) The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision in that they will be required to comply with current City codes and standards.
- (g) Because of the subject site's existing topography, a modification to the Subdivision Ordinance for a reduction to lot width is warranted.
- (h) The proposed project will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance. The project site will be graded to conform to the surrounding development.
- (i) The proposed development is located within a special seismic studies zone for potential landslides. A geotechnical report was prepared by Geotechnical Engineers, Inc (GEI) and was peer reviewed by a City-selected geotechnical consultant. The site has been determined to be suitable for the proposed development based on the incorporation of project-specific geotechnical mitigation measures also made conditions of approval herein.
- (j) The proposed project will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont. The proposed project would result in three single-family homes located in a single-family neighborhood comprised both of one and two-story homes. The proposed project would function similarly to residential uses in the surrounding area.
- (k) The most logical development of the land requires private street access because the physical character of the project site shape is more amenable to less intense private street right-of-way requirements.
- (l) The private street is intended as circulation and an access route for vehicular traffic and will at no time function as a parking and loading area for vehicles within the minimum specified street width, with exception granted for the private street when functioning as an Emergency Vehicle Access Easement.
- (m) Safety lighting consistent with City of Fremont standards for all private streets shall be installed.

CONDITIONS OF APPROVAL:

General Conditions:

1. The approval of PLN2007-00117 shall conform to Exhibit "B" [Project Development Plans (PUD), Tentative Parcel Map 9278, Preliminary Grading Plan and Private Street), and all the conditions of approval set forth herein. This approval permits redevelopment of the site with three new homes (one new home on each lot) after Parcel Map approval. This approval allows the variations outlined below, otherwise all development standards of the R-1-6, Single-family Residence shall be met.
 - Lot Area – Lot 1; 6,173 square feet and Lot 2; 6,192 square feet shall be permitted.
 - Lot Width – Lot 1; 56 feet shall be permitted.
 - Landscape Setback adjacent to Private Street – 6 feet shall be permitted.
2. Approval of Vesting Tentative Parcel Map 9278 shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Fremont Municipal Code consistent with the State Subdivision Map Act. This tentative map shall expire twenty-four (24) months after the date of tentative map approval unless tentative map extensions are approved in accordance with the Subdivision Map Act.
3. The final map and subdivision improvement plans shall be submitted to the Engineering Division for review to insure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
4. Approval of Private Street (PLN2007-00117) shall become effective upon final map approval.
5. Approval of this Preliminary Grading Plan shall run concurrent with the approval and subsequent extensions of Vesting Tentative Parcel Map 9278. Approval of this Preliminary Grading Plan shall terminate upon the expiration of Vesting Tentative Parcel Map 9278.
6. Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
7. A demolition permit shall be required for removal of the existing home on the site and must be obtained from the Building Department prior to approval of the final map.
8. Building construction plans shall be submitted to the Development Organization for review and approval to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code, this Planned Unit Development and other associated approvals.
9. The final Building Permit plans as approved through the Development Organization review process shall include, as reference, the Landscape Plans approved through Improvement Plan Review.
10. Minor modifications to the approved building designs, elevations and colors may be made, subject to review and approval of the Planning Director or Director's designee if such

modifications are in keeping with the architectural statement of the original approval. However, the Planning Director shall retain the authority to determine the level of review required, including a Planning Commission review.

11. Parcel A shall be owned in common by the owners of Parcel 1, Parcel 2, Parcel 3, or owned by a homeowners association whose members consist of the owners of Parcel 1, Parcel 2, Parcel 3.

Payment of Fees

12. The project shall be subject to all City-wide development impact fees. These fees may include, but are not limited to, park dedication in-lieu fee, fees for fire protection, park facilities, capital facilities and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance. An impact fee credit shall be given to the applicant for one of the new residences, because one house currently exists on the project site.

Legal Requirements/Agreement/Deed Restrictions

Covenants, Conditions and Restrictions (CC&Rs)

13. A Homeowners Association or any other mechanism acceptable to the City is to be established and formed in conjunction with the project CC&R's and is to covenant and be responsible for the maintenance of all commonly owned facilities, including landscaping and private vehicle access ways, which are not maintained by the public utility agency, except that all maintenance work resulting from backfill failure is to be the responsibility of the homeowners association (after the one-year warranty period.) The developer is to be responsible for maintenance of all facilities during the one-year warranty period.
14. Developer is to provide a complete set of construction plans to the Homeowners Association at the time of its formation.
15. The guest parking located on Lot A, being the private street shall only be used for guest parking and shall be signed as such.
16. The landscape plan shall provide for a separate irrigation system for the areas to be irrigated and maintained by the Homeowners Association. The areas to be maintained by the Home Owners Association shall include the front and side yards adjacent to the driveway for each lot, stormwater treatment facilities, the planter along the west property line from Washington Boulevard to the private side yard gate of Lot 3 and the area between Washington Boulevard and the garage of Lot 1.
17. Pursuant to Government Code Section 66474.9, the Subdivider, or any agent thereof, or successor thereto, shall defend, indemnify, and hold harmless the City of Fremont, its officials, employees or agents (collectively "City") from any claim, action or proceeding against the City to attack, set aside, void, or annul, the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37.

The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.

18. Conditions Covenants and Restrictions (CC&Rs) are to be recorded concurrently with the parcel map to create a Homeowner's Association or other mechanism acceptable to the City for those lots with private street frontage which is to covenant and be responsible for the following:
 - a. Maintenance of the facilities in the private street which are not maintained by a public utility agency, except all utility work resulting from backfill failure is to be the responsibility of the Homeowner's Association.
 - b. Payment of the water and Private Street lighting (maintenance and energy) bills.
 - c. Maintenance, repair, replacement and removal of blockages in all building sewers. Maintenance of the building sewers includes repair of any trench failures and/or trench surface material failures.
 - d. Maintenance and "knock-down" repair of fire hydrants and water facilities along the private street is to be done by the utility agency at the expense of the Homeowner's Association. The Homeowner's Association is to be responsible for repainting any fire hydrants along the private street.
19. Each buyer is to sign an acknowledgment that he/she has read the constitution and bylaws of the Home Owner's Association and the conditions, covenants and restrictions applying to the development.

Prior to Issuance of Building Permits (Plan Details and/or Modifications Required)

Site and Architectural Design

20. The applicant shall provide six (6) foot high, lattice top, privacy fencing and gates to provide privacy and security for each home. Final design of the fencing and gates shall be subject to review and approval during the Improvement Plan Review process. Fencing shall be installed as part of the subdivision improvements.
21. The design team shall work with staff on the creation of decorative concrete paving along Mascot Drive and in the parking area. Decorative paving shall not be placed within the City of Fremont right-of-way. Decorative pavement shall be designed for a thirty (30) year life and to withstand the impact of weekly garbage truck traffic. The decorative pavement area shall be increased from what is shown on the plan to provide for a stronger design and more durable pavement edges. Final design of the decorative paving shall be subject to review and approval during the Improvement Plan Review process.
22. High quality, decorative garage doors shall be used on all units. The use of standard steel doors shall not be permitted.
23. All new residences shall be pre-wired with exterior junction boxes to provide satellite dish cable connections. In addition, all bedrooms, including the living room, shall be pre-wired with phone and cable connections. No external wiring of these utilities shall be permitted.

Planting & Irrigation, Hardscape and Lighting

24. Adequate space to plant trees adjacent to buildings or other built features must be provided in the following minimum ways:
 - a) Small trees (to 15 feet tall) no closer than 6 feet from building or 2 feet from paving, curbs, or walls with a minimum planting area 5 feet wide.
 - b) Medium trees (to 30 feet tall) no closer than 10 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide.
 - c) Large trees (above 30 feet tall) no closer than 15 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide, preferably 8 feet wide.
25. All planting areas containing trees shall be free of all utility structures (including light standards) and other built features consistent with the spacing requirements of City Standard Detail Street Tree Clearances.
26. Screening elements and/or appropriate landscaping shall be provided for all ground-level mechanical/utility equipment and appurtenances.
27. Landscape plans shall be submitted with Improvement Plans for review and approval, indicating full details regarding (1) paving materials and textures of walkways and paved pedestrian areas, (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures, and (3) landscaping of site and open areas. As part of the landscape plans the applicant shall submit:
 - a. A Layout Plan to illustrate the design of all hardscape elements including walls, fences, light locations, at grade or above grade utility boxes and vaults, walkways and decorative pavement.
 - b. An automatic underground irrigation plan utilizing low flow, durable, irrigation equipment that limits overspray onto pavement, walls and fences. Irrigation system shall be designed to require minimum maintenance.
 - c. Construction details of raised planters, walkways, paths, benches, walls, fences and other architectural features as appropriate to the project.
 - d. A Tree and Utility Coordination Plan.
28. The final landscape plans shall be prepared by a licensed landscape architect and shall be submitted at a minimum scale of 1"=10' to match the civil plans and for greater legibility. The design shall be refined so that the plants specified can grow to maturity within the space provided and that the maximum amount of turf shall not exceed 25% of the irrigated landscape area. Final design of the landscape plans shall be subject to review and approval during the Improvement Plan review process.
29. All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect.
30. A lighting plan, submitted in conjunction with a photometric plan, shall be subject to the review and approval of the Planning Division during the Development Organization review process. All lighting shall be architectural consistent with the design of the buildings. In compliance with the Fremont Municipal Code, lighting will be reviewed to avoid substantial light or glare that may

have an impact on day or nighttime views in the area. Light shields will be required to direct the light and avoid nuisance light. All light fixtures shall be high quality with concealed lighting elements so that the light bulb is not visible. All pole light locations shall be coordinated with the placement of trees to eliminate conflicts between the trees and lights and so that the light is not blocked by the growth of the trees.

31. Safety lighting is to be provided on the private street. Lights shall utilize "vandal resistant" enclosures and shall have sufficient power and spacing to provide a minimum maintained foot-candle level of 0.12.
32. The retaining wall located adjacent to the west and north sides of Lot 1 shall be moved to provide a minimum six (6) foot clear planting area between the back of curb and retaining wall to allow for the planting of trees and to improve sight distance. The privacy fence for Lot 1 shall be placed on top of this retaining wall.
33. The final design, material selection and color treatment of the retaining walls and sound walls shall be subject to review and approval during the Improvement Plan Review process.

Public Safety Requirements

34. Prior to the issuance of any permit for vertical construction, the applicant shall provide a roadway access to the site with an all-weather surfacing and water supply with a minimum flow rate of 1,000 gallons per minute.
35. Fire hydrants are to be located along the private street as determined by the Fremont Fire Department.
36. The applicant shall meet all requirements of the currently adopted edition of the California Building, Fire and City of Fremont Municipal Codes in effect at the time of building permit application.
37. The applicant shall install an N.F.P.A. 13-D residential fire sprinkler system without exceptions allowed complying with local amendments.
38. Public fire hydrant head assemblies within 500 ft of site to be a Clow Model 860 or equivalent. Underground fire service to be provided with cathodic protection or soils report stating what level of protection is required.
39. The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.
40. The applicant shall comply with the provisions of the permits required from any state or regional agencies, including, but not limited to, the Bay Area Air Quality Management District (BAAQMD), Regional Water Quality Control Board (RWQCB), Union Sanitary District's (USD) POTW and the Alameda County Department of Environmental Health.

41. The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.

Grading

42. Grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
43. The applicant may be allowed grading deviation up to a maximum of one foot (plus or minus) between the preliminary grading plan and the final grading plan. Deviation over one foot may be referred to the Planning Commission, subject to approval of the City Engineer.
44. The applicant shall provide an erosion control plan, as part of the project plans, subject to review and approval by the City Engineer.
45. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
46. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
47. The project plans shall be designed in accordance with the approved geotechnical report. Grading shall be supervised by an engineer registered in the State of California to do such work.
48. The Project Geotechnical Engineer shall be retained to review and approve the final grading plans and specifications prior to permit issuance.
49. The minimum drainage slope in vegetated swales shall be 1.5%, when constructed with a subdrain system. Minimum 2% drainage slope shall be used if no subdrain is installed. Minimum requirements are subject to revision by the City Engineer upon receipt and review of soil drainage data from the project geotechnical engineer.
50. All retaining walls shall be limited to a maximum exposed height of three feet. All retaining walls supporting surcharge shall be reinforced concrete or approved equal. Pressure treated wood retaining walls (including "kicker boards") will be allowed for retaining walls 12-inches or less in height.
51. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
52. Private street grading and drainage shall be done according to public street standards, subject to review and approval by the City Engineer prior to final map approval.

Street Right-of-Way, Utilities and Public/Private Improvements

53. The developer shall construct street improvements along the Washington Boulevard project frontage. Required street improvements include, but are not limited to, removing the existing driveway, constructing a new driveway, installation of utilities, repair and replacement of damaged sidewalk, curb, gutter, and pavement as determined by the City Engineer during the Improvement Plan review process.
54. The applicant shall dedicate right-of-way and provide complete street improvements for the internal street with a right-of-way of 26' feet and a pavement width of 20' feet.
55. A minimum six-foot wide public service easement shall be dedicated along the Washington Boulevard frontage of the project site. Project entry and monument signs and walls shall not be located within the public service easement.
56. The project storm drain system shall conform to City standards and shall be subject to review and approval of the City Engineer. Drainage calculations shall be submitted with the grading and drainage plans for the project. Drainage plans and calculations may be subject to review and approval of the Alameda County Flood Control and Water Conservation District (ACFC&WCD), subject to determination by the City Engineer.
57. All new utility service connections, including electrical and communications, shall be installed underground. Electrical transformers shall be installed in underground vaults within an appropriate utility easement or public service easement.
58. Common area subdivision improvements, private streets, and all other subdivision improvements owned or maintained by the Homeowners Association are subject to review and approval by the City Engineer prior to parcel map approval. Such improvements include, but are not limited to all improvements on Common Lot A including, pavement, curb, gutter, landscaping and irrigation. The developer shall bond for these improvements in accordance with FMC 8-1426.
59. All existing buildings within the proposed subdivisions shall be demolished prior to recording the final map.
60. The streetlight plan and joint trench plan shall be submitted by the applicant with the first subdivision plan check for the street improvement plans and final map. The final streetlight plan and joint trench plan shall be completed prior to final map approval.
61. Existing overhead utilities within the subdivision boundary shall be removed. Utilities to remain shall be relocated underground in appropriate utility easements. Existing overhead utilities include, but are not limited to an overhead service and utility pole to the existing residence on the site. The new utility locations are subject to review by the City Engineer.
62. The developer shall request P.G.&E. to commence with the design of the utility underground work for the proposed development after the Planning Commissions approval of Tentative Parcel Map 9278.

63. The private street name is subject to modification prior to final map approval.
64. Private Vehicle Access Way (PVAW) and a Public Utility Easement (PUE) are to be established over the entire private street right-of-way. The PUE dedication statement on the final map is to recite that the PUE is available for, but not limited to, the installation, access and maintenance of sanitary and storm sewers, water, electrical and communication facilities.
65. The developer shall dedicate emergency vehicle access easements (EVAE) over the clear pavement width on private streets within the subdivision. The easement geometry shall be subject to the approval of the City Engineer.
66. The private street pavement shall be designed on the basis of a traffic index using predicted traffic generation and a thirty-year pavement design life. In no case shall the traffic index be less than 5.5. Asphalt concrete surfacing to be treated with a seal coat of the type and amount required by the City Engineer. Pavement design sections shall be subject to approval of the City Engineer.
67. A signpost, to which is attached a sign having an area of at least fifteen inches by twenty-one inches, is to be installed at or near the private street entrance. The name of the private street is to be placed on this sign in clearly legible four-inch letters. The sign is to have painted, in at least one-inch letters, "Private Property. Not dedicated for public use."
68. On-site private streets are to be posted for "No Parking," except in those areas designed to accommodate on-street parking, as shown on the tentative map and planned unit development site plan.
69. The connection between the private vehicle access way and the public street is to be by a standard driveway.

Stormwater Facility Design

70. The design of the stormwater treatment planters shall be integrated with the overall landscape design so that they are a landscape amenity. Pervious pavers shall also be utilized within the guest parking area. The final design of the stormwater treatment planters shall be subject to review and approval during the Improvement Plan Review process.
71. The subdivision improvement plans shall include storm water treatment plans and calculations that comply with Planned Unit Development (PLN2007-00117) and that identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff.
72. The provided Storm Water Control Plan is approved in concept only. Final approval is subject to the developer providing the necessary plans, details, and calculations that demonstrate the plan complies with the Alameda Countywide NPDES Municipal Stormwater Permit, subject to City Engineer approval prior to recording the final map.

73. The concept storm water treatment measures, as shown on the preliminary grading plan (Exhibit "B", Sheet 5), are for informational purposes only and are not being approved as part of the preliminary grading plan.

Special Project Conditions

Mitigation Measures

74. **Mitigation 1:** Within 21 days prior to the anticipated start of tree trimming, excavation, and grading activities a qualified biologist shall conduct preconstruction surveys to identify nesting birds and raptors for the purpose of avoiding their destruction. A letter shall be provided to the City by the qualified biologist stating their findings. In the event that nesting raptors are found, the biologist shall include recommended measures for a work exclusion zone to prevent disturbance of the nesting birds until they are fully fledged. Such requirements for an exclusion zone and protective fencing shall be included on any permits issued for construction activities on the site.
75. **Mitigation 2:** An engineering peer review of geotechnical and soils studies are required at the building permit stage of the project, prior to the issuance of a building permit.
76. **Mitigation 3:** Prior to the issuance of a grading permit and building permits, an erosion control and stormwater pollution prevention plan shall be provided for review and approval that protects the steep slope and private creek located along the north side of the property.
77. **Mitigation 4:** Prior to issuance of the building permits, a plan indicating the STC rating for windows and wall assemblies and sound wall design specifications shall be submitted to the City for review and approval. The plan shall include certification of final details on construction techniques and materials from a qualified acoustical consultant as meeting General Plan Health and Safety standards noise exposure levels of 45 dB Ldn in all habitable rooms and instantaneous noise levels of 50 dBA Lmax in bedrooms and 55 dBA Lmax in other habitable rooms. Mechanical ventilation shall be required when interior noise standards can only be met when windows are closed.
78. Provide a three (3) foot wide sound proof door in the sound wall in the rear yard of Parcel 3 to allow for access between the level portion and the sloped portion of the rear yard.
79. To mitigate the identified air quality impacts of grading and construction, dust suppression measures shall be incorporated into the project conditions of approval and construction drawings. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Stockpiles of sand, soil, and similar materials shall be covered with a tarp. Cover trucks hauling dirt or debris to avoid spillage. Paving and/or landscaping shall be completed as soon as feasible to reduce the time bare surfaces and soils are exposed. Dust emissions during construction will be minimized through the application of water required by the project specifications.

80. Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5 (e) and (f) will be followed to reduce impacts to a non-significant level.
81. As mitigation for the removal of two (2) Canary Island Pine trees, the project shall include a two 48" box Fruitless Olive trees to be planted along Washington Boulevard behind the walkway.
82. As mitigation for the removal of the remaining thirteen (13) existing trees on-site, the project shall include a minimum of an equal number (13) of 24" box size trees.

Green Building

83. The project should achieve a minimum of 50 points and attain the minimum prerequisites and categorical points as measured by the 2007 (or newer version) New Home Construction greenpoint checklist published by Build It Green. Provide a completed checklist to the Planning Division for review and acceptance prior to the issuance of building permit.
84. The applicant shall utilize integrated solar roof tiles into each residence. The tiles shall be placed on the south-facing side of the roofs to maximize the effectiveness of this amenity.

During Construction Conditions

85. Construction hours will be limited in accordance with Section 8-2205 of the Fremont Municipal Code, and notes to this effect shall be placed on the cover sheet of the construction plans and on an all-weather notice board (format and content specified by City) conspicuously placed adjacent to the most visible right of way for the duration of the construction activity as follows:
 - a. Monday-Friday, 7 a.m. to 7 p.m.
 - b. Saturday & Holiday, 9 a.m. to 6 p.m.
 - c. Sunday, no construction activity allowed.
86. Prior to the inspection of the roof sheathing, the project manager or supervising general contractor shall contact the Development Organization at (510) 494-4480 for an interim inspection by Planning Division staff of the structure to ensure that the construction is consistent with the approved architecture and building design

Requirements to be completed prior to request for Final Inspection

87. A professional engineer, registered in the State of California, shall be retained to prepare the final grading plan. Upon completion of the grading, a letter shall be submitted to the Development Organization that the as-built grading is in compliance with the approved grading plan.
88. The project landscape architect shall submit a letter to the City certifying that the on-site and streetscape (ROW) landscaping have been constructed in conformance with the approved landscape and irrigation plan, subject to the review and approval of the Development Organization.

END OF CONDITIONS

NOTE TO DEVELOPER

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the conditions of approval. The developer is hereby notified that the 90-day period in which the developer may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this project. If the developer fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.



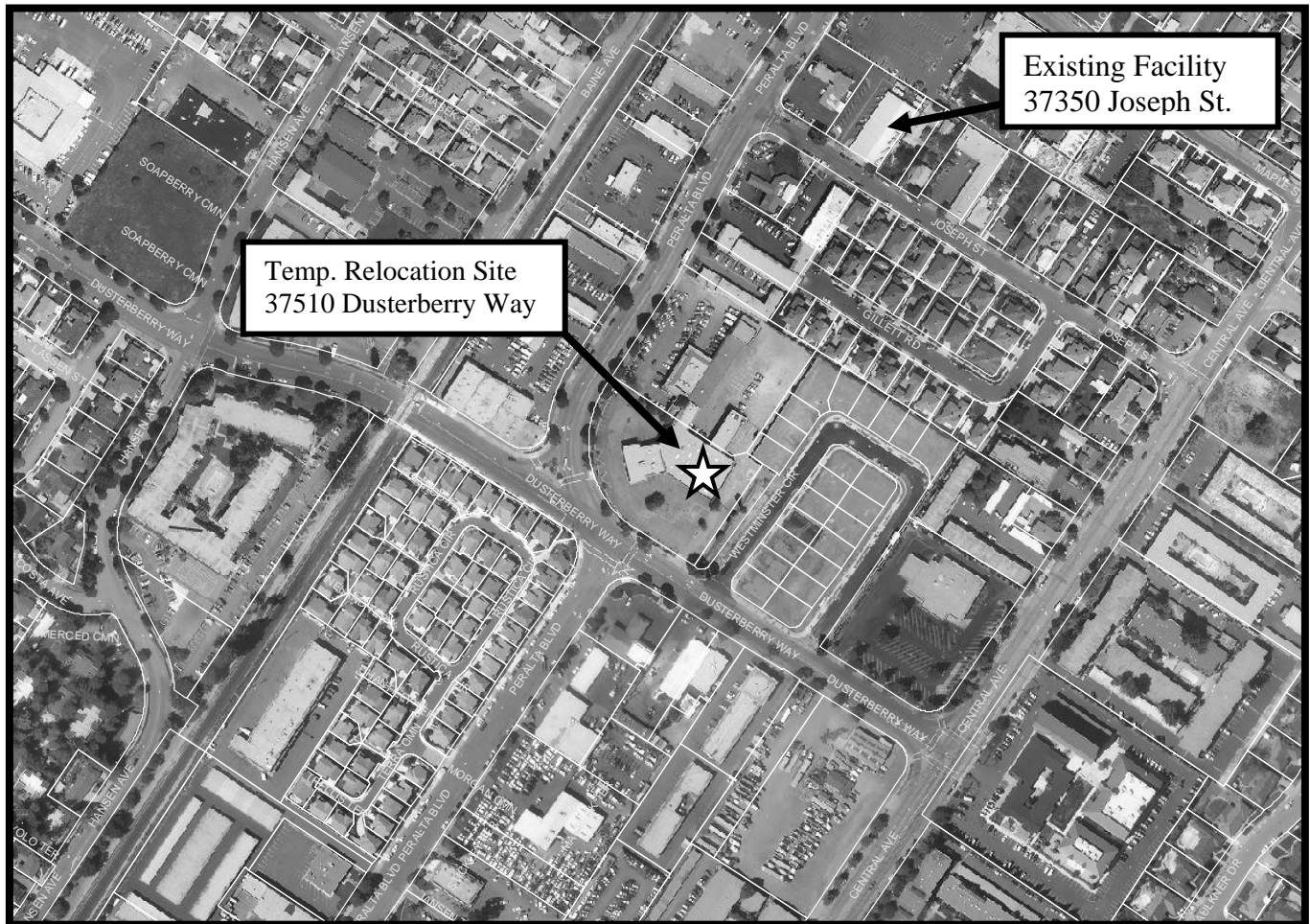
PLANNING COMMISSION STAFF REPORT APRIL 9, 2009

Project:	TRI-CITY VOLUNTEERS - (PLN2008-00053)
Proposal:	To consider a Planned District Minor Amendment to extend temporary occupancy for a private non-profit organization providing food distribution and a retail thrift store.
Recommendation:	Approve, based on findings and subject to conditions.
Location:	37510 Dusterberry Way in the Centerville Planning Area APNs 501-0526-021-00 (See aerial photo next page)
Area:	Approximately 6,200 square foot of an existing 17,252 square foot building on a 1.7-acre lot
People:	Tri-City Volunteers, Applicant Lucia Hughes, COF Human Services Department, Agent of Applicant City of Fremont, Property Owner Bryan Bevers, Tri-City Volunteers, Executive Director Clifford Nguyen, Staff Planner (510) 494-4769; cnguyen@fremont.gov
Environmental Review:	The project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.
General Plan:	Medium Density Residential, 6.5-10 dwelling units per acre (Centerville Specific Plan)
Zoning:	P (CSPC), Preliminary Planned District (Centerville Specific Plan Overlay)

EXECUTIVE SUMMARY:

In September 2007, the Planning Commission approved a Planned District Minor Amendment which allowed Tri-City Volunteers (TCV) to temporarily use a City-owned building at 37510 Dusterberry Way as a thrift store and food distribution facility for a 15-month duration from January 2008 to April 2009. TCV is a private non-profit group that provides emergency food, clothing, furnishings and other assistance to individuals and families. The temporary relocation was necessary to circumvent an otherwise disruption in providing these much needed services while the renovation of the agency's permanent facility at 37350 Joseph Street is being renovated. Tri-City Volunteers did not relocate to the temporary facility until September 2008 due to a delay in starting the renovation of the permanent facility. This has necessitated a need for an extension to allow them to remain at the temporary location until the end of October 2009. Staff recommends approval of the request as proposed.

Figure 1: Aerial Photo (2002) of Project Site and Surrounding Area.



SURROUNDING LAND USES: North: Auto dealership and repair shops, retail services
South: Auto and retail services
East: Residential
West: Residential

BACKGROUND AND PREVIOUS ACTIONS:

Since 1985, Tri-City Volunteers (TCV) has been operating out of a City-owned building located at 37350 Joseph Street. The Joseph Street building was in need of upgrades and the work was originally anticipated to start in January 2008. However, the start of the construction was delayed due to the prolonged selection process to retain a contractor.

In September 2007, the Planning Commission approved a Planned District Minor Amendment which permitted TCV to temporarily use another City-owned building a block away at 37510 Dusterberry Way as an interim measure to continue providing services while its permanent facility is under renovation. The term was for 15 months and expires at the end of April 2009.

In February 2009, an application was submitted requesting an extension of the term to permit TCV to occupy the building for an additional six months until the end of October 2009.

PROJECT DESCRIPTION:

Tri-City Volunteers requests a Planned District Minor Amendment to extend the temporary term six months to the end of October 2009 to continue their operation at 37510 Dusterberry Way. No other modifications to their September 2007 approval are requested.

PROJECT ANALYSIS:

General Plan Conformance:

The General Plan land use designation for the project site is Medium Density Residential, 6.5-10 dwelling units per acre. The proposed project is consistent with the existing General Plan land use designation for the project site because Policy LU 1.1. [Allowed Uses] of the Land Use Chapter permits a semi-public facility, such as a church or non-profit organization assisting the public, when conditions are established to minimize impacts on adjacent residents. The proposed use falls within this category and can be considered, as Tri-City Volunteers has met, and continues to meet, all operational conditions previously approved by the Commission consistent with the policy.

Zoning Regulations:

The zoning designation of the site is P (CSPC), City Initiated Preliminary Planned District (Centerville Specific Plan Overlay). Based on the underlying land use designation of Medium Density Residential and applicable Planned District zoning standards, the use may be conditionally permitted. The proposed building and site can sufficiently accommodate the use and ample parking is provided. Operational conditions previously approved by the Planning Commission would remain in effect for the temporary use to ensure impacts on the adjacent neighborhood are minimized. Since the move to the temporary location on Dusterberry Way was delayed seven months, extending the term of the use for six months would be in keeping with the Planning Commission's original approval of a 15-month duration.

Parking: The Zoning Ordinance requires a minimum of one parking space per 300 square feet of gross floor area. The interim use of the building would require 21 parking spaces. There are 96 parking spaces on the site that well exceeds this minimum requirement.

Environmental Review:

The project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 97 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on March 25, 2009. A Public Hearing Notice was published by The Tri-City Voice on March 25, 2009 .

In September 2007, at the time the temporary relocation to the Dusterberry building was originally considered, staff received several phone calls and emails from concerned neighboring residents. In general, the neighborhood was concerned with unwanted nuisances, such as abandoned shopping carts, loitering, and littering. Tri-City Volunteers has indicated to staff that they have not received any complaints from the neighborhood since occupying the building, and staff has verified there have been no formal complaints filed with the City. Tri-City Volunteers sent out courtesy letters last month informing the neighborhood of the proposed time extension for their temporary stay.

ENCLOSURES:***Exhibits:***

- Exhibit "A" Vicinity Map, Site Plan and Floor Plan
- Exhibit "B" Findings and Conditions of Approval

Informational:

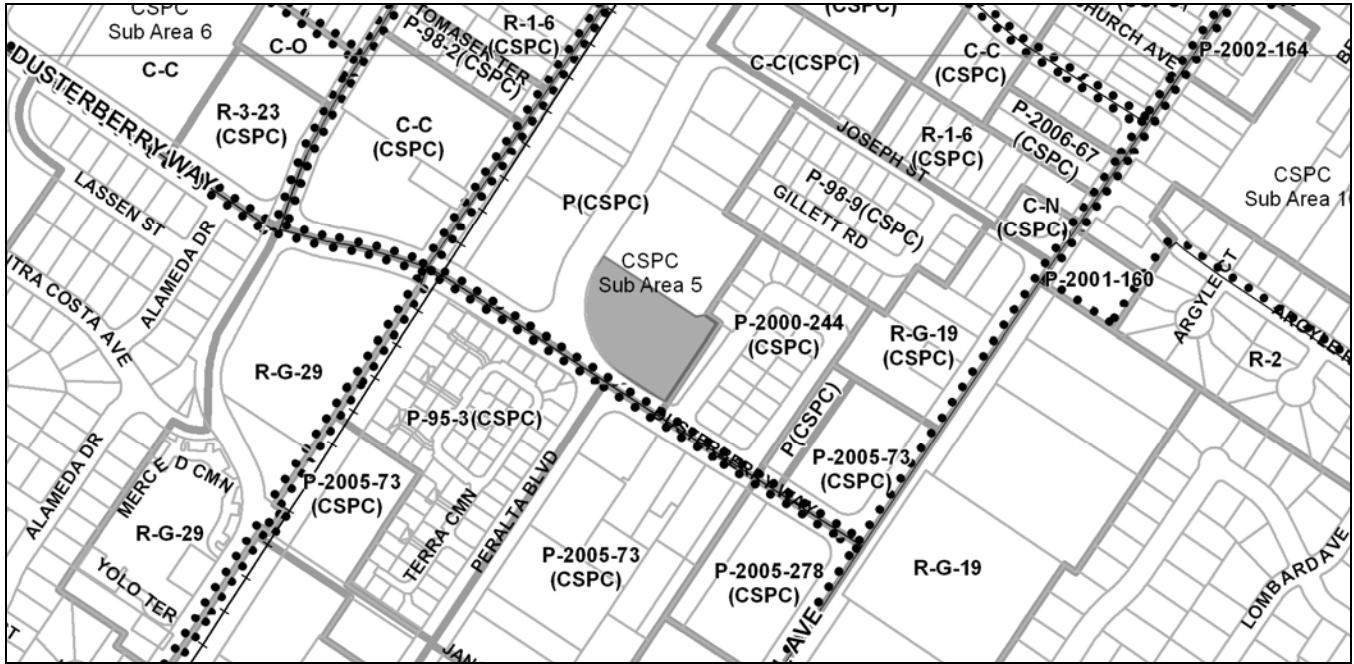
March 2009 Tri-City Volunteers Letter to the Commission

RECOMMENDATION:

1. Hold public hearing.
2. Find that the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) per Guideline 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.
3. Find PLN2008-00053 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report. The project conforms to the goals and objectives of the Policy LU1.1.
4. Approve PLN2008-0053 to permit a six-month extension of the temporary use of the site to October 31, 2009 as a thrift store and food distribution facility, as shown on Exhibit "A", subject to findings and conditions in Exhibit "B".

Existing Zoning

Shaded Area represents the Project Site



Existing General Plan



Exhibit "B"
Planned District Minor Amendment (PLN2008-00053)
Tri-City Volunteers
Temporary Relocation at 37510 Dusterberry Way
APN 501-0526-021-00

FINDINGS

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated April 9, 2009, incorporated hereby.

1. The use is consistent with the General Plan designation for the site, since the proposed land use, a quasi-public use operated by a non-profit organization, is conditionally permitted on property containing a land use designation of Medium Density Residential, 6.5-10 dwelling units per acre.
2. The site is suitable and adequate for the proposed use because the temporary relocation within an existing building on the project site can sufficiently accommodate the proposed use. No major alterations or improvements are needed to the building or site. Ample parking is provided for customers and employees.
3. The proposed use would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or other public facilities or services because all roadway improvements adjacent to the project site have been completed and points of ingress-egress are properly located.
4. The proposed use would not have a substantial adverse economic effect on nearby uses because the proposed use is temporary. No uses will be displaced as a result of the temporary relocation.
5. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large because the use will be required to adhere to operational conditions to ensure compatibility with, and to minimize impacts on, adjacent commercial and residential uses.
6. The proposed use is compatible with existing and proposed development within the district and its surroundings because the temporary thrift store and food distribution facility will be located in an existing structure.

CONDITIONS (AS MODIFIED BELOW)

General Conditions-Permitted Temporary Use

1. Approval of PLN2008-00053 for a thrift store and food distribution service shall conform to Exhibit "A" (Site and Floor Plan) as approved by the Planning Commission in September 2007. The proposed floor plan shall substantially conform to the plans submitted for this application.
2. Minor modifications to the Planned District Minor Amendment may be made subject to review and approval of Community Development Director if such modifications are in keeping with the intent of the original approval. The Community Development Director, however, may refer any modification to the Planning Commission when the Director feels that the request is of such a nature that it warrants consideration by the Planning Commission.
3. Approval of PLN2008-00053 for Planned District Minor Amendment shall allow ~~a 15-month temporary use from January 1, 2008 to April 31, 2009~~ an additional six-month temporary use from May 1, 2009 to October 31, 2009 of a thrift store and food distribution service within a 6,200 square foot tenant space at 37510 Dusterberry Way. The general business hours of operation shall be Monday through Friday, from 8:30 a.m. to 4:30 p.m.
4. Use of the site as permitted under this approval may be extended due to unforeseen weather or other circumstances upon approval of a time extension by the Planning Commission.

Operational Conditions

5. The activities of the operation shall be limited to the permitted uses of a thrift store and food distribution service for the 15-month duration. No use shall occur outside of the building, except for storage within the enclosed rear yard.
6. No customers shall be permitted to loiter or congregate outside of the facility. The operator shall post "No loitering" signs within the parking areas pursuant to Fremont Municipal Code.
7. Signs in the parking lot shall be posted pursuant to Section 22658(A) of the California Vehicle Code to assist in removal of vehicles at the manager's request.
8. The operator is responsible for litter control and for sweeping of all paved surfaces on the property to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.

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PLANNING COMMISSION STAFF REPORT APRIL 9, 2009

Project:	SANGEETAANJALI MUSIC INSTITUTE (PLN2009-00044)
Proposal:	To consider a Conditional Use Permit to allow a portion of an existing single-family residence to be used as a non-profit music school with occasional concerts and recitals held inside the home.
Recommendation:	Deny based on findings.
Location:	4600 Nelson Street in the Irvington Planning Area APN: 501-0962-084-00 (See aerial photo on next page)
Lot Size:	6,123 square feet (0.14 acres)
Building Size:	4,677 square feet
People:	Ardhendu Raha, Applicant and Property Owner Steve Kowalski, Staff Planner, (510) 494-4532; skowalski@fremont.gov
Environmental Review:	This project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15301 (Use of an Existing Facility).
General Plan:	Low Density Residential 5-7 dwelling units per acre
Zoning:	Single-Family Residence (R-1-6) District
PUD:	PUD-63-6

EXECUTIVE SUMMARY:

The applicant is proposing to run a non-profit music school and hold occasional concerts and recitals for audiences of up to 120 people at his 4,677 square foot single-family home located at 4600 Nelson Street in the Single-Family Residence (R-1-6) zoning district. A non-profit music school is defined as a quasi-public use in the Zoning Ordinance, and in accordance with Section 8-2603 of the ordinance quasi-public uses are only permitted in the R-1-6 zoning district subject to approval of a Conditional Use Permit by the Planning Commission. Staff believes that a proposal to conduct a music school with concerts and recitals attracting up to 120 audience members inside the home would have a significant adverse impact on the surrounding residential properties. As such, staff recommends the Planning Commission deny the application as proposed based on the findings presented in Exhibit "B" attached to this staff report.

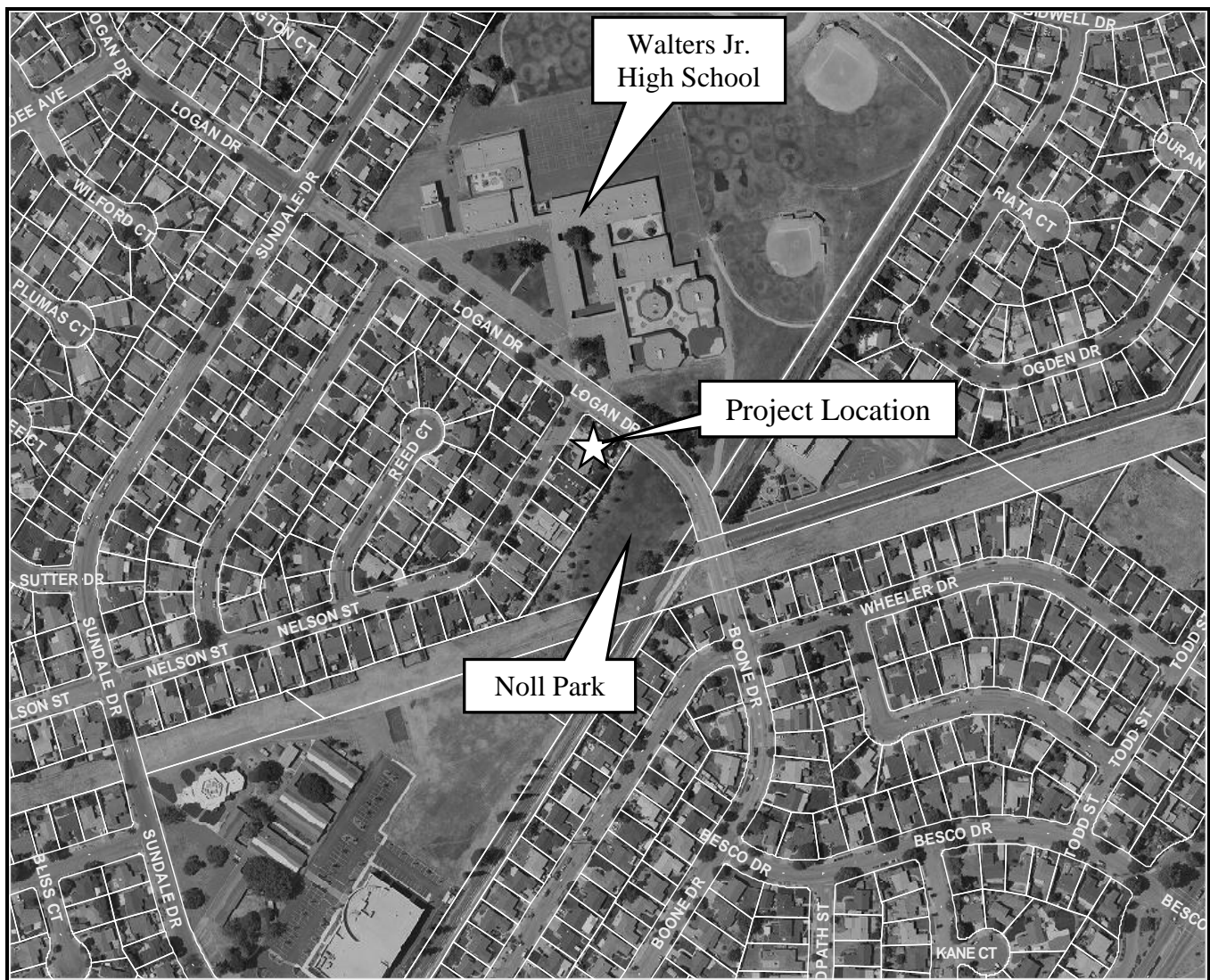


Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

- North: Single-family residential (R-1-6 zone)
- South: Noll Park (O-S zone)
- East: Walters Junior High School (R-1-6 zone)
- West: Single-family residential (R-1-6 zone)

BACKGROUND AND PREVIOUS ACTIONS:

The subject residence was originally constructed in the early 1960's. In 2005, the applicants applied for a building permit to do a major remodel and addition of nearly 3,200 square feet, including a large loft on the second floor overlooking the living room. In 2008 staff learned that the applicant was attempting to construct a concert hall-type floor plan with the loft serving as a balcony in order to conduct musical concerts and recitals in association with a music school he operates out of his home. At that time, staff determined that a conditional use permit was needed to allow the music school and concerts to be conducted within the house. There have been no other planning entitlements associated with the property prior to this application.

PROJECT DESCRIPTION:

The applicant is proposing to operate a music school specializing in Indian Classical music out of his home, with 3-6 classes held per day (excluding Sundays) ranging in size from 1 to 4 students each. Specifically, the school would provide 3 classes per night from Monday through Thursday, and 6 classes on both Friday evenings and Saturday mornings. No classes would occur on Sundays. On weeknights one instructor would teach all 3 classes, while on Fridays and Saturdays the classes would be split between two instructors. One of the instructors is the applicant's wife, while the other is a guest who stays at the house with the family during the weekend when simultaneous classes are held.

In addition to running the music school, the applicant intends to hold musical concerts and recitals inside of the house with performances by the school's students, instructors and renowned musicians from both the local community and India. In 2005 the applicant obtained building permits and began remodeling his home by adding a large two-story addition to the structure. In 2008 the City learned that one of the purposes of the addition was to provide a concert hall-type setting inside the house where concerts and recitals could be held, complete with a second-story balcony overlooking a stage area in the living room, and multiple bathrooms adjacent to the hall. It was at this time that the applicant informed the City of his intentions to run a professional music school and conduct concerts and recitals inside of the house.

According to the applicant, the area where the concerts and recitals would be held can accommodate an audience of 120 members comfortably and up to a maximum of 150, but he has stated that most performances will not fill every seat. His plan is to hold approximately 10-15 concerts per year from March through October, but excluding the month of July when no performances will take place. He has contacted the Fremont Unified School District about the possibility of leasing the parking lot at Walters Junior High School which is located directly across Logan Drive from the site in case parking becomes problematic for the neighbors, but his intent is to have his guests park along Nelson Street adjacent to the house and along Logan adjacent to the park behind the house and the school across the street.

PROJECT ANALYSIS:

General Plan Conformance Analysis

The General Plan land use designation for the project site is Low Density Residential 5-7 Dwelling Units per Acre. This land use designation is intended to provide for traditional single-family residential development while also allowing for uses that are compatible with such development such as schools, parks and churches that are designed in a way so as not to impact the surrounding residential properties. Staff is concerned about the impacts that the proposed use is likely to have on the surrounding neighborhood, and believes that the proposal is inconsistent with the following General Plan Land Use Goal:

- **Land Use Goal H 1** – *Conservation and enhancement of existing residential neighborhoods.*

Analysis

The intent behind this land use goal is to protect and preserve the character of the City's residential neighborhoods by ensuring that incompatible land uses are not introduced within their boundaries. One way in which the Municipal Code enacts this policy is by restricting the size and intensity of home occupations. Under Section 8-22144, home occupations such as music schools may not attract more than two customer vehicles at a time and no more than 10 customer vehicles per day. In addition, the use must only be carried on in one room of the house, may not occupy more than one-fourth of the floor area, and must be conducted solely by a resident of the home.

Staff believes that the number of students being proposed (10-15 per day) coupled with the proposal to conduct concerts attracting audiences of 120 or more would not be a compatible land use for a residential neighborhood. By way of comparison, the use could not be carried on as a home occupation as the applicant would employ one instructor who does not reside on the premises, use multiple rooms, and accommodate class sizes and numbers of classes that would generate both more concurrent and more aggregate vehicle trips than allowed for a home occupation.

There is a junior high school located directly across Logan Drive from the site where the concerts could be held in a multi-purpose room leased from the local school district and there is ample parking available for large audiences in the school's parking lot. If the applicant were able to utilize the school for the concerts and run the music school in compliance with all other provisions of Section 8.22144 of the Municipal Code, a conditional use permit would not be needed. However, the business as it is currently proposed does not comply with the regulations governing home occupations which are meant to protect the character of the City's residential neighborhoods. For this reason staff finds that the proposed use is inconsistent with the General Plan.

Zoning Compliance Analysis

The project site is located within the R-1-6 zoning district. In accordance with Section 8-2199.19.7 of the Municipal Code, a non-profit music school is defined as a "quasi-public use" offering musical education services to the public. Section 8-2603 of the Municipal Code only allows quasi-public uses in

the R-1-6 zone subject to approval of a Conditional Use Permit by the Planning Commission. In order to approve a Conditional Use Permit the Planning Commission must make the following findings:

- (a) The proposed use is consistent with the General Plan;
- (b) The site is suitable and adequate for the proposed use;
- (c) The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services;
- (d) The proposed use would not have a substantial adverse economic effect on nearby uses;
- (e) The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large; and
- (f) The project will comply with the provisions of Article 27 of the Zoning Ordinance (Site Plan and Architectural Approval).

Discussion:

- (a) General Plan and Zoning Consistency: As discussed in the General Plan Conformance Analysis section above, it is staff's opinion that the proposal to run a music institute and conduct concerts out of the applicant's home is inconsistent with the General Plan's goals to protect the character of the City's established residential neighborhoods. In staff's opinion the business would have an adverse impact on the neighborhood because of the likely impacts the traffic, parking, and possibly noise, will have on the neighboring properties. Similarly, approval of Conditional Use Permit for a "quasi-public use", in this case a not for profit music school with a concert hall, would require conformance with zoning requirements for such a use as discussed below.
- (b) Site suitability and adequacy: While the site may be suitable for a music school that complies with the City's provisions governing home-based occupations, staff feels the intended use of the home as an occasional concert hall is inappropriate for a residential neighborhood. The applicant has indicated that the concert hall portion of his house can accommodate 120 people comfortably and up to 150 if necessary, and this could result in anywhere from 30-40 vehicles coming to the neighborhood and parking along the street. The house has a 2-car garage and a 2-car driveway, but no additional on-site parking. On-street parking is available on all of the adjacent streets. Therefore, when a performance is held at the house, it is likely that some 30-40 cars would park along the adjacent streets as close to the site as possible, and this could make it extremely difficult for adjacent neighbors or their visitors to park on the street close to their homes. It is also important to note that other quasi-public uses such as religious facilities and community buildings are only permitted in residential districts on lots located along or adjacent to arterial roads and of a size large enough to accommodate their own parking, setbacks and open space on site. These requirements are designed to enable the use to fit into the surrounding residential neighborhood without overwhelming the adjacent properties or overburdening the street system. The subject lot

was originally created to accommodate a single-family residence, and as such, is unable to accommodate the features typically required of quasi-public uses such as on-site parking and open space. It is for these reasons that staff feels the site is not suitable for the proposed use.

- (c) Impact on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services: The proposed use of the home as a music school with 10-15 students coming and going from the premises per day would not have a significant adverse impact on vehicular or pedestrian safety, transit services, or roadway capacity. Concerts and recitals drawing audiences of up to 120 patrons held occasionally throughout the year would also likely not overburden the streets or impact public safety in that the performances would be held on evenings and weekends when schoolchildren and vehicular traffic travelling to and from the adjacent school are not present in the area.
- (d) Economic impact on nearby uses: Home-based businesses are normally permissible in residential zoning districts subject to a number of conditions designed to ensure that they do not pose a nuisance or adversely impact the character of the surrounding neighborhood. A music school that complied with these conditions would not have an adverse impact on nearby uses in that there are no other businesses in the immediate vicinity that offer similar services.
- (e) Impact to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large: The applicant's business plan proposes a total of 24 classes per week inside the home, with class sizes ranging from 1-4 students and daily totals ranging from 10-15 students, and the number of instructors varying from one on weeknights to two on Friday evenings and Saturdays. It also proposes 10-15 concerts to be held per year, with a maximum audience size of 120 patrons.

Staff is concerned about the proposed number of students per day because it is substantially greater than the number of students allowed in a residence in conformance with home-based business standards, and it does not provide the onsite facilities that a private school typically provides such as on-site parking. Staff is also particularly concerned about the proposal to conduct concerts and recitals in the home, and believes that such events will have a significant impact on the neighborhood because of the demand for parking that will accompany each performance. Assuming an average family size of four members per vehicle with a full house expected for a concert or recital, and it can reasonably be assumed that some 30-40 cars may drive to the site. The standard home occupation for an educational business is only entitled to receive two vehicle trips per class and a maximum of 10 trips per day from parents driving their children to and from each session, so allowing 30 or more additional vehicles to come to the site for a single event could have a significant adverse impact on the neighboring residents' ability to park on the street. If a number of concertgoers were to park along Nelson Street or Logan Drive, some of the neighbors would have difficulty parking their cars or their guests' cars on the street in front of their home.

- (f) Compliance with Article 27 of the Zoning Ordinance: If the Planning Commission chooses to deny the Conditional Use Permit application, then this finding will not be applicable. However, if the Commission chooses to approve the application, then the applicant may have to make additional modifications to the structure in order to comply with current Building and Fire Codes

governing educational and assembly uses. In such a case, the applicant will be required to obtain approval from the Development Organization, including the Building and Fire Departments, to ensure compliance with the applicable building and life safety codes.

Because based on staff's analysis findings (a), (b), and (e) above cannot be made, staff recommends the Planning Commission deny the project based on the findings contained in Exhibit "B".

Environmental Review:

This project qualifies as a Class 1 categorical exemption pursuant to Guideline 15301 of the California Environmental Quality Act (Use of an Existing Facility).

PUBLIC NOTICE AND COMMENT:

Public hearing notification is required for the entitlement being requested. A total of 48 notices were mailed to the owners and occupants of all property located within 300 feet of the project site, as well as the properties located along Logan Drive between Sloan Street and Wheeler Drive, and along Nelson Street up to the entrance to Reed Court where concertgoers will likely park (see Figure 1). The notices were mailed out on Friday, March 27, 2009. A Public Hearing Notice was published in *The Tri-City Voice* on Wednesday, March 25, 2009.

The applicant held a meeting to discuss the proposal with a number of his immediate neighbors on Sunday, September 28, 2008. Three families attended the meeting. Two neighbors have contacted staff since the proposal was submitted, both sharing the opinion that the use is incompatible for a residential neighborhood.

ENCLOSURES:

Exhibits:

Exhibit "A"	Proposed Music School/Concert Hall Plans
Exhibit "B"	Findings of Denial

Informational Items:

Informational 1	Operations Statement and additional information submitted by Applicant (3 total pages)
Informational 2	Letter of Opposition from Neighbor (1 page)

RECOMMENDATION:

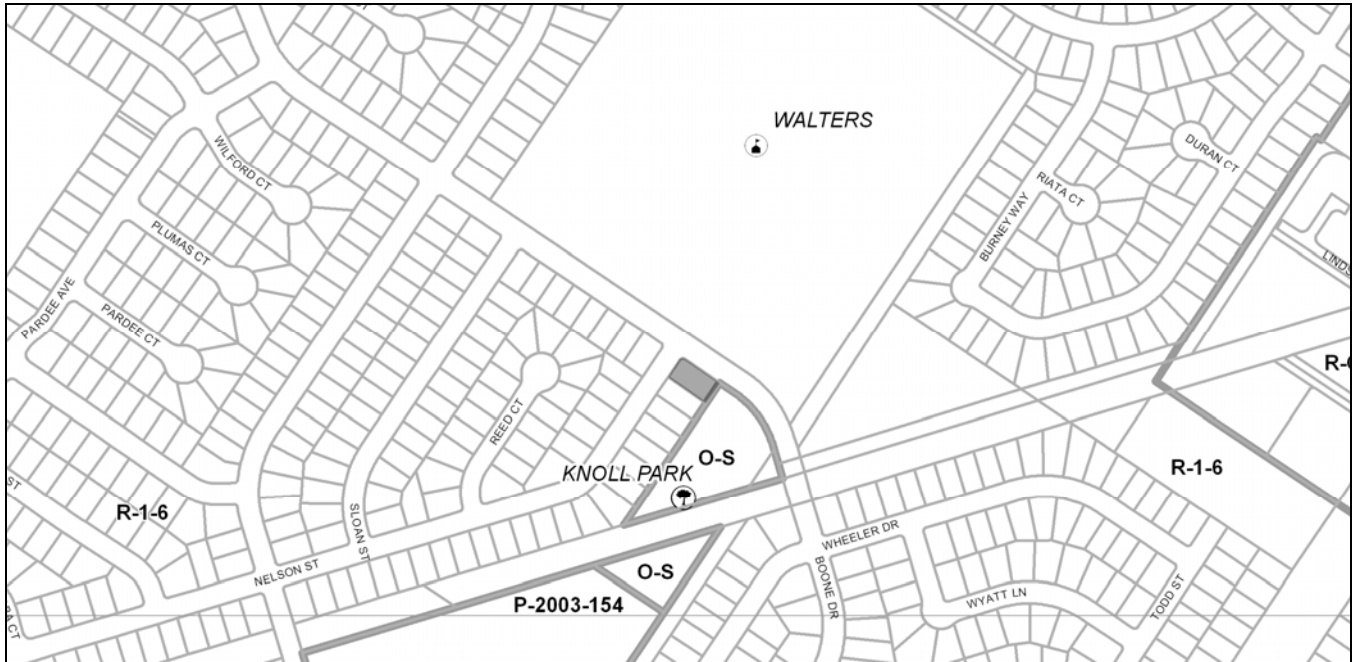
1. Hold public hearing; and
2. Deny Conditional Use Permit application PLN2009-00044 as shown in Exhibit "A" and described in Informational Item #1, based on the findings of denial contained in Exhibit "B";

OR

1. Continue item to May 14, 2009 and direct staff to return to the Commission with findings and conditions of approval in support of the application and a recommendation for approval.

Existing Zoning

Shaded Area represents the Project Site



Existing General Plan

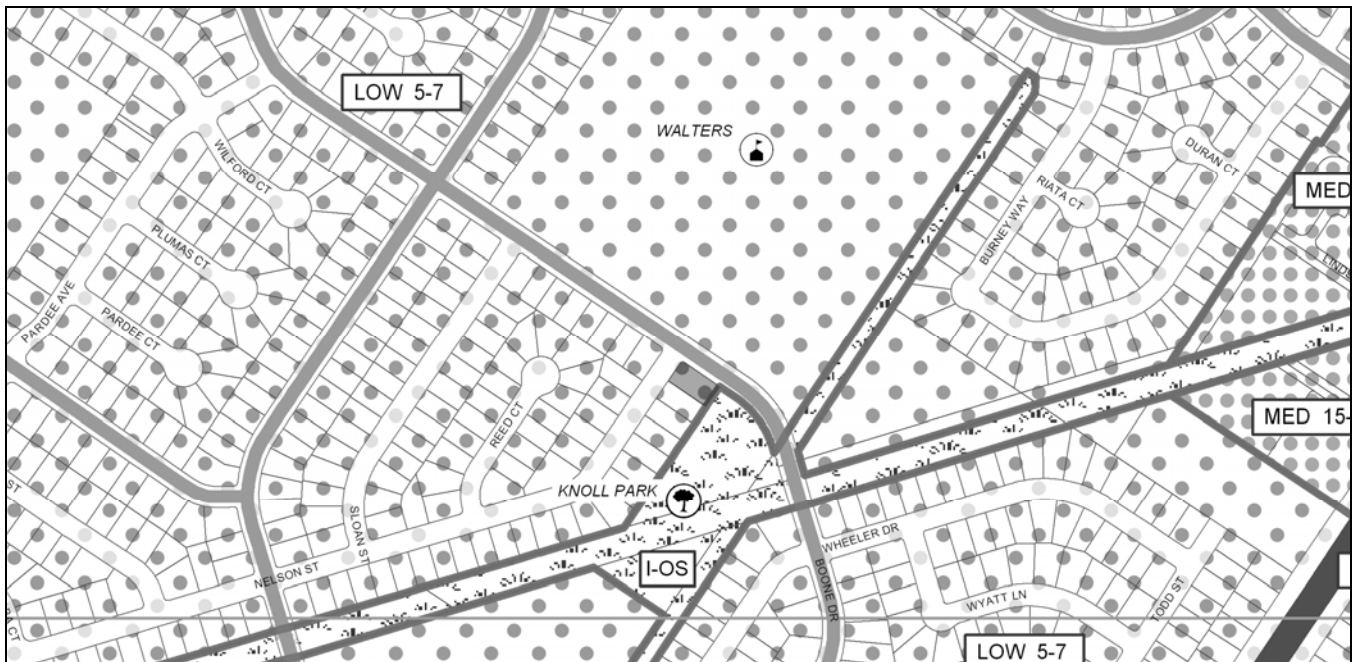


Exhibit "B"
Findings for Denial
PLN2009-00044 – Sangeetaanjali Music Institute Conditional Use Permit
4600 Nelson Street

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Planning Commission dated April 9, 2009, incorporated hereby:

- (a) The proposed use is inconsistent with the goal of the General Plan to protect the character of its established residential neighborhoods in that the applicant is proposing to conduct concerts and recitals with seating for up to 120 audience members (and a maximum capacity of 150), and allowing regularly-scheduled events in one's home that generate audiences of such a large size is inappropriate for a residential district because of the impacts that traffic and parking generated by the performances will have on the surrounding neighborhood;
- (b) The site is unsuitable and inadequate for the proposed use in that the property only has a 2-car garage and a 2-car driveway, but no additional on-site parking for the approximately 30-40 cars that will likely drive to the site for the performances and attempt to park along the streets as close to the site as possible, thereby making it very difficult for adjacent neighbors or their visitors to park their cars on the street close to their homes;
- (c) The proposed use would be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large in that the proposal to conduct concerts and recitals in the home will have a significant impact on the neighborhood because of the demand for parking that will accompany the events. Assuming an average family size of four members per vehicle with a full house expected for a concert or recital, and it can reasonably be assumed that some 30 cars may drive to the site. Allowing 30 or more vehicles to come to the site for regularly-scheduled concerts would be inconsistent with Municipal Code Section 8-22144 and would have a significant adverse impact on the neighboring residents' or their guests' ability to park on the street.

**PLANNING COMMISSION MEETING
APRIL 9, 2009**

Applicant: **SAHNI RESIDENCE - 44529 VISTA GRANDE COURT - (PLN2009-00184)**

Proposal: To consider a Preliminary Grading Plan application for a new single family home located in the Mission San Jose Planning Area. A Mitigated Negative Declaration was previously adopted for the subdivision Tract Map and Planned District (P-90-17).
Project Planner - Susan Summerford, (510) 494-4543,
ssummerford@fremont.gov

Recommended Action: Continue to a date uncertain.

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ACRONYMS

ABAG	Association of Bay Area Governments	HBA	Home Builders Association
ACCMA	Alameda County Congestion Management Agency	HRC	Human Relations Commission
ACE	Altamont Commuter Express	IS	Initial Study (CEQA)
ACFCD	Alameda County Flood Control District	JPA	Joint Powers Authority
ACTA	Alameda County Transportation Authority	Ldn/DNL	Day-Night Average Sound Level
ACTIA	Alameda County Transportation Improvement Authority	LLMD	Lighting and Landscaping Maintenance District
ACWD	Alameda County Water District	LOS	Level of Service
BAAQMD	Bay Area Air Quality Management District	MND	Mitigated Negative Declaration (CEQA)
BART	Bay Area Rapid Transit	MMRP	Mitigation Monitoring and Reporting Program (CEQA)
BCDC	Bay Conservation & Development Commission	MTC	Metropolitan Transportation Commission
BMPs	Best Management Practices	NEPA	National Environmental Policy Act
BMR	Below Market Rate	ND	Negative Declaration (CEQA)
CBD	Central Business District	NOC	Notice of Completion (CEQA)
CC&R's	Covenants, Conditions & Restrictions	NOD	Notice of Determination (CEQA)
CDBG	Community Development Block Grant	NOP	Notice of Preparation
CDD	Community Development Department	NPDES	National Pollutant Discharge Elimination System
CEQA	California Environmental Quality Act	PC	Planning Commission
CIP	Capital Improvement Program	PD	Planned District
CMA	Congestion Management Agency	PUC	Public Utilities Commission
COF	City of Fremont	PVAW	Private Vehicle Accessway
CUP	Conditional Use Permit	PWC	Public Works Contract
dB	Decibel	RDA	Redevelopment Agency
DEIR	Draft Environmental Impact Report (CEQA)	RFP	Request for Proposals
DO	Development Organization	RFQ	Request for Qualifications
DU/AC	Dwelling Units Per Acre	RHNA	Regional Housing Needs Allocation
EBRPD	East Bay Regional Park District	ROP	Regional Occupational Program
EDAB	Economic Development Alliance for Business (County)	ROW	Right of Way
EDAC	Economic Development Advisory Commission (City)	RTC	Response to Comments (CEQA)
EIA	Environmental Impact Analysis	RWQCB	Regional Water Quality Control Board
EIR	Environmental Impact Report (CEQA)	SPAA	Site Plan and Architectural Approval
EIS	Environmental Impact Statement (NEPA)	STIP	State Transportation Improvement Program
FAR	Floor Area Ratio	TCRDF	Tri-Cities Recycling and Disposal Facility
FEIR	Final Environmental Impact Report (CEQA)	T&O	Transportation and Operations Department
FEMA	Federal Emergency Management Agency	TOD	Transit Oriented Development
FFD	Fremont Fire Department	TS/MRF	Transfer Station/Materials Recovery Facility
FMC	Fremont Municipal Code	UBC	Uniform Building Code
FPD	Fremont Police Department	USD	Union Sanitary District
FUSD	Fremont Unified School District	VTa	Santa Clara Valley Transportation Authority
GIS	Geographic Information System	WMA	Waste Management Authority
GPA	General Plan Amendment	ZA	Zoning Administrator
HARB	Historical Architectural Review Board	ZAP	Zoning Administrator Permit
		ZTA	Zoning Text Amendment

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2009 PLANNING COMMISSION MEETINGS

Date	Meeting Type
1/08	Planning Commission Meeting
1/15	Long Range/General Plan Meeting for Planning Commission
1/22	Planning Commission Meeting
2/12	Planning Commission Meeting
2/19	Long Range/General Plan Meeting for Planning Commission
2/26	Planning Commission Meeting
3/12	Planning Commission Meeting
3/19	Long Range/General Plan Meeting for Planning Commission
3/26	Planning Commission Meeting
4/9	Planning Commission Meeting
4/16	Long Range/General Plan Meeting for Planning Commission
4/23	Planning Commission Meeting
5/14	Planning Commission Meeting
5/21	Long Range/General Plan Meeting for Planning Commission
5/28	Planning Commission Meeting
6/11	Planning Commission Meeting
6/18	Long Range/General Plan Meeting for Planning Commission
6/25	Planning Commission Meeting
7/9	Planning Commission Meeting
7/16	Long Range/General Plan Meeting for Planning Commission
7/23	Planning Commission Meeting
8/27	Planning Commission Meeting
9/10	Planning Commission Meeting
9/17	Long Range/General Plan Meeting for Planning Commission
9/24	Planning Commission Meeting
10/8	Planning Commission Meeting
10/15	Long Range/General Plan Meeting for Planning Commission
10/22	Planning Commission Meeting
11/12	Planning Commission Meeting
11/19	Long Range/General Plan Meeting for Planning Commission
12/10	Planning Commission Meeting
12/17	Long Range/General Plan Meeting for Planning Commission